

HUMAN RIGHTS AND THE WORLD'S MAJOR RELIGIONS

THE ISLAMIC TRADITION

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William H. Brackney, Series Editor

*For Zaynab and our children:
'Umar, Sarra, Muhammad al-Fatih, and Salma*



CONTENTS |

Introduction to Human Rights and the World's Major Religions by <i>William H. Brackney</i>	ix
Acknowledgments	xiii
Introduction	xv
Chronology	xxxix

PART I. HISTORICAL DEVELOPMENT AND ANALYSIS

1. SOME DISTINCTIVE FEATURES OF THE HUMAN RIGHTS TRADITION IN ISLAM	3
2. BASIC TEACHINGS AND PRINCIPLES	15
3. THE INTERPLAY OF THEORY AND PRACTICE: QUESTIONS OF GENDER AND MINORITIES	51
4. DECLINE, COLONIAL DOMINATION, AND THE QUEST FOR REVIVAL AND RECONSTRUCTION	77
5. ISLAM, DEMOCRACY, AND HUMAN RIGHTS	103
6. CONCLUDING REMARKS	131

PART II. HUMAN RIGHTS RESOURCES IN THE ISLAMIC TRADITION

7. SOURCES ILLUSTRATIVE OF HUMAN RIGHTS IN THE ISLAMIC TRADITION	137
8. BIOGRAPHICAL SKETCHES OF HUMAN RIGHTS LEADERS IN THE ISLAMIC TRADITION	183
Notes	201
Annotated Bibliography	225
Index	245

INTRODUCTION TO HUMAN RIGHTS AND THE WORLD'S MAJOR RELIGIONS

THIS BOOK IS THE THIRD of a series produced by Praeger Publishers titled *Human Rights and the World's Major Religions*. The purpose of the series is to define the meaning of human rights in the specific religious tradition and survey its breadth and development across time and cultures. Each author has crafted analytical chapters and selected appropriate primary source materials that illustrate their analyses. Additionally, these books are reference works that include biographical sections, extensive annotated bibliographies, a chronology, and an index. The religious traditions included in the series are Judaism, Christianity, Islam, Hinduism, and Buddhism.

This volume is devoted to Islam. In an introductory chapter, the author makes a case for the inherent link between Islam and human rights. His coverage of the religious meaning of Islam crosses centuries and is uniquely clear in its presentment. Other chapters analyze the rich and varied textual tradition in Islam relating to rights and responsibilities of Muslims to other Muslims and to non-Muslims as well, the particular questions arising from gender and political concerns for minority groups, and the tensions between Islamic law and national political states where Muslim faithful live. Readers will find especially interesting the history of Jews, Christians, and others under Islamic rule, indicating high levels of religious tolerance for minorities, as well as the impact of colonialism upon traditional Muslim societies. The author's long experience in studying

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the interplay of religion and the political development of Islamic nation-states is a valued strength of this work. Readers will find that he is self-critical of the tradition.

The reference value to this volume is demonstrated in the selection of primary source materials drawn from the Qur'an and other published works interpreting and illustrating Islamic practice. Biographical sketches inform us of the broad contributions of men and women in the tradition to various human rights challenges right up to the present. He includes persons from the Prophet's spouse to a recent recipient of the Nobel Prize. The annotated bibliography is a thoroughgoing list with insightful and integrated commentary on the relevant literature. Finally, a chronology surveys the evolution of Islam and recognition of human rights, an astonishing record in itself.

Muddathir 'Abd al-Rahim is widely recognized as both a theorist and practitioner in the Islamic tradition. A son of Sudan who took degrees at the University of London and the University of Nottingham, he earned his PhD in economics and the social sciences at the University of Manchester. With Arabic as his mother tongue and English as his first foreign language, he has taught at universities in Africa, Europe, Asia, and the United States, including Khartoum, Rabat, Makerere, Karo, Temple University in the United States, and Manchester in the United Kingdom. Since 1997 he has been professor of political science and Islamic studies at the International Institute of Islamic Thought and Civilization (ISTAC) in Kuala Lumpur, Malaysia. Dr. 'Abd al-Rahim has also had a distinguished diplomatic career with UNESCO as an ambassador to the nordic countries, as a representative of the government of Sudan to the United Nations, and in developing a Sudanese policy on refugees. In 1967-1968, he established the Sudanese National Committee for Human Rights—the first organization of its kind in Africa and the Arab World. He is a widely published author of over two dozen articles or books focusing on globalization and Islam, Islam and International Relations, colonialism and nationalism, human rights, and the political thought of al-Ghazali and Ibn Sina (Avicenna). His 1969 work, *Imperialism and Nationalism in Sudan*, republished in 1992 and translated into Arabic, is considered an authority in its field. A mentor to doctoral students at a key center of studies and a widely quoted analyst, we are delighted to have the results of Dr. 'Abd al-Rahim's scholarship in the midst of a demanding schedule.

I commend Dr. 'Abd al-Rahim's work as a faithful and scholarly achievement in Islamic studies. General readers will find much here to introduce

Islam, and there is a clear underlying advocacy of human rights as well as a sensitivity to other religious traditions. It is a fine addition to this relevant series of studies.

William H. Brackney
Series Editor

ACKNOWLEDGMENTS |

LIKE ALL BOOKS, THIS IS THE FRUIT OF generous cooperation and valuable assistance selflessly given by many people, especially in Malaysia and the United States—to all of whom I hereby wish to express my sincere thanks and heartfelt appreciation.

Special thanks are due to my colleague Dr. Karim D. Crow of the International Institute of Islamic Thought and Civilization (ISTAC), Malaysia, who first suggested that I should write the book. I am also grateful to Professor Muhammed Kamal Hassan, Rector of the International Islamic University, Malaysia, for his interest and support. The editor of the Human Rights and the World's Major Religions series, to which this book belongs, Professor William H. Brackney, former Chairman of the Department of Religion and current Director of the Program in Baptist Studies at Baylor University, has unstintingly given his support and wise advice throughout. Suzanne Staszak-Silva of Greenwood Publishing has been a firm and yet flexible manager when circumstances dictated certain delays in the submission of the final manuscript. I wish to express my deepest thanks and appreciation to Suzanne and Bill in this regard.

Mr. Scott Culpepper and Mr. Arthur Torpy of Baylor University helped with the final preparation for publication of the selections from the Qur'an that appear in Part II, while Sulait Kabali, a doctoral candidate at ISTAC, Malaysia, kindly helped with the preparation of other items similarly in chapter 7. Meanwhile, my friend and former student at ISTAC, Ermin Sinanovic, now of Syracuse University, has kindly provided

me with a number of books and documents that I have not been able to obtain locally.

From her London base, my daughter Samya kept sending much appreciated moral support throughout.

I would also like to record my sincere thanks and appreciation to the authors and publishers of works that I have used in this study.

Siti Mar'iyah Chu binti Abdullah, also of ISTAC, helped with typing the first drafts of the introduction and chapters 1 and 2. But my children, Salma, Muhammad al-Fatih, Sarra, and 'Umar have since generously sacrificed their midsemester break in order to help type and retype many drafts, with Fatih and Sarra stoically sticking it out with me, on two separate occasions, throughout the whole night until after sunrise on the following day. Our mainstay and chief pillar of strength throughout, however, has been my wife, Ustadha Zaynab Muhammad Badri. To her, and to our four children, this book is dedicated—in love and gratitude.

INTRODUCTION |

Men are different from the other animals because of their passionate interest in goodness, justice, beauty and truth. Without interest in any one of those spiritual values, man is nothing but a beast, the most efficient and the most cruel of the beasts. . . . We must stop a moment and [consider] one of the most fruitful events in the history of mankind: the birth of Islam.

George Sarton of Harvard University,
in *The Incubation of Western Culture in the Middle East*

SOME PRELIMINARY REMARKS ARE in order, first about Islam and some basic terms related to it, and second about the Universal Declaration of Human Rights and the concerns that the international faith communities have articulated in relation to it. Third, there are divergent views held by different groups across the Muslim world regarding the Universal Declaration and these must be discussed.

BASIC MEANING OF "ISLAM," "SHARI'A," AND "FIQH"

TO BEGIN WITH, "Islam" is an Arabic word that literally, if basically, means submission or surrender (i.e., of oneself to God, Allah),¹ but being derived from the root "s l m," it is also closely related to cognate terms

that signify peace, integrity, and wholeness, all of which are of central importance in the teachings of the Qur'an and Prophet Muhammad.

Like Judaism and Christianity, Islam is an Abrahamic faith—from the biblical patriarch Abraham, commonly regarded as the father of monotheistic faiths. Islam shares many basic beliefs with Judaism and Christianity and sees itself as a culmination, or perfection, of both.

Unlike Christianity and perhaps some other faith systems, however, Islam, strictly speaking, is not a religion as the term is generally understood in contemporary or modern Western societies, that is, as a basically spiritual relationship between humans and God. Rather, it may more accurately be depicted as a religiously based way of life, or *Dīn*—the Arabic term by which Islam is described in the Qur'an. As used in the Qur'an and the *Sunna* with reference to Islam, the term *Dīn* signifies a way of life in which the material and the spiritual do not constitute dichotomous modes of experience, but are regarded as a continuum and an integrated whole in which all aspects of life—personal and social, economic and political, artistic and intellectual, spiritual and sexual, creative or otherwise—are not only interrelated, but are also sustained by faith and endowed with religious meaning and ethical significance.

The Qur'an for Muslims is literally the word of God, the final and most complete message from God to humanity. It is therefore immutable and absolutely binding on one and all. Next to the Qur'an, and in fact inseparable from it, is the *Sunna*, the exemplary deeds and directives of Prophet Muhammad. For he was not only the first and most authoritative interpreter of the Qur'an—literally “the recitation”—as a text, but also the personification in practice of the application of its values and principles in concrete historical situations. Muhammad, it is important to remember, was not only a prophet but also a statesman, commander in chief, and teacher across a wide range of public as well as personal affairs.²

In addition to being the basic spring from which the spiritual and ethical teachings of Islam flow, the Qur'an and the *Sunna* also constitute the *shari'a*, which is the legal and juridical foundation of Islam and the universal community of Muslims, or *Umma*, across the centuries. A review of the various provisions of the *shari'a* as enshrined in the Qur'an and the *Sunna* would reveal that while certain aspects of the *shari'a*, such as the laws dealing with marriage and inheritance, are spelled out in some considerable detail, others—such as *shura*, the principle that matters of public import or common interest should be decided in consultation between all concerned—are not, and, evidently, not unintentionally. For whereas

the family is clearly meant to constitute the irreducible nucleus and foundation of Muslim society under all circumstances, the manner in which *shura*, for example, may appropriately and effectively be applied at any given time or place may vary with the conditions and circumstances.

Reference to the possibility of variation in interpretation of *shari'a* in many of its aspects leads one to a brief consideration of *fiqh*, which, because of its intimate involvement with the *shari'a*, is often loosely described as, or identified with, the *shari'a*. In Arabic the word *fiqh* literally means profound or in-depth understanding as distinct from mere knowledge. As a technical term, however, *fiqh* is generally understood to mean the sum total of rules and directives that, derived from the Qur'an and the *Sunna* in accordance with the recognized principles of Islamic jurisprudence (*Usul al-Fiqh*), are either evolved or adopted in any Muslim society for the purpose of governing or regulating the conduct of individuals and groups. While the *shari'a*, as far as Muslims are concerned, is the divinely ordained system of basic laws, values, and principles enshrined in the Qur'an and the *Sunna*, *fiqh* consists of the opinions and judgments of qualified scholars and jurists whose function it is to interpret and elaborate the *shari'a* for purposes of detailed application in the course of changing times and circumstances. Whereas the *shari'a* is therefore one and immutable, *fiqh* is diverse and everchanging, hence the rich variety of schools (*madhabs*) of *fiqh*—*Sunni*, *Shi'i*, and *Ibadi*—with numerous subdivisions and mutations.

The rich variety in question reflects not only the variety in temperament and perception of the different thinkers and jurists concerned, but also, and more importantly, the sociocultural and political needs and requirements of Muslim peoples and societies at different times, places, and circumstances. Adapting the flexible rules of the *shari'a* in order to meet the changing needs and requirements of Muslim societies historically has been the role and responsibility, first and foremost, of the *'ulama* (plural, meaning qualified scholar-jurists, literally “people of knowledge”; singular: *'alim*). The *'ulama*, individually and collectively, have traditionally endeavored to fulfill their duties as social guides and experts in law and jurisprudence primarily by exercising *ijtihad* (i.e., the exertion of creative intellectual abilities in the resolution of intellectual, political, and sociocultural problems and challenges facing Muslim societies at any given time or place in the light of the *shari'a*) and also through engaging in open dialogue or debate, as may be appropriate, with peers, decision makers, and thinking members of society—and the world—at large.

The long and oftentimes intense debate about Islam and human rights that has been underway since the mid-twentieth century is a case in point. Whether it is viewed in relation to the Muslims of the world in particular, or as part of the wider global debate regarding the appropriate pattern of future relations between world religions as a whole and the vitally important question of human rights, this is a subject of considerable existential as well as academic importance. Various aspects of the debate and of Islam as faith and civilization will be discussed in the following chapters.

Before moving on to discuss any such issues, however, and in view of the fact that *shari'a* and *fiqh* are not infrequently translated into English and other modern European languages as "Islamic law," it is important to point out that although legal matters—for example, contracts, torts, and procedures—are indeed core issues in *shari'a* and *fiqh*, these differ from law as the term is ordinarily used and understood in contemporary Western or Western-type societies in at least two respects. One of these is that *shari'a* and *fiqh* cover much wider areas of human behavior—including matters of personal hygiene, dress, social etiquette, and religious devotion, none of which are ordinarily regarded as matters for the law to govern or regulate in Western societies. Another dissimilarity between the two is that whereas the legal system in any Western society is presumed to express the will of the people or the mood of the society at any given time or stage of its evolution, *shari'a* and *fiqh*, although seeking to meet that requirement just as secular laws do, go beyond that function to direct or mold personal and social conduct to a much greater extent. This, as may be expected, has been a central issue in the ongoing debates about human rights in many contemporary Muslim societies.³

THE GEOPOLITICAL SPREAD OF ISLAM—AN OVERVIEW

WHATEVER IS TO be discovered about the relationship of human rights and Islam, it is relevant to 1.3 billion people—that is, more than one-fifth of humanity. As members of the most rapidly spreading faith for many decades now, the adherents of Islam constitute the second largest religious group globally as well as in much of Europe and North America.⁴

Speedy growth and expansion have been attendant characteristics of Islam from the earliest phases of its history. Mercilessly persecuted for some thirteen years after it was first preached by Prophet Muhammad in

Makka from about 610 C.E., Islam first found a political foothold in Madina, an agricultural oasis about three hundred kilometers to the north of Makka in western Arabia. There Prophet Muhammad began deploying and demonstrating his gifts as a statesman as well as a prophet by forging ties between the Muslim immigrants from Makka and the Madinan clans of the Aws and the Khazraj, who had already embraced Islam into a hitherto unprecedented form of association: a faith community with a universal moral mission that he designated the *Umma*, the term by which the international Muslim community has since continued to be known.

As clearly indicated in *Sahifat al-Madina*,⁵ or the Charter of Madina, which was effectively the constitutional foundation of the Madinan state, the preexisting tribal and ethnic structures and associations were not thereby abolished or declared illegitimate. Instead, they were allowed to continue to exist, but as constituent units of the new moral and religious-political system rather than as the constantly feuding objects of ethnic pride and sources of tribal conflict that they had been since time immemorial. Within the new system, the overriding loyalty of one and all was to Islam as a faith and a universal moral mission, to the *Umma* as the international community of the faithful, and to Muhammad as prophet, final arbiter, and head of state. Thus were laid the foundations of the historically remarkable success of Islam, compared with other world religions and civilizations, in integrating and fostering feelings of brotherhood and solidarity between peoples of different ethnic origins and cultural backgrounds. This prompted Professor William Montgomery Watt of Edinburgh University to observe that "a study of the achievement of Islam may throw some light on how the integration of world society is likely to come about, and may even suggest ways in which man may consciously contribute to this process."⁶

The growth in power and influence of the Madinan state under Prophet Muhammad was so rapid that by the time of his death in 632 C.E., most of the Arabian peninsula had come under his control and Islam was already knocking at the gates of the two superpowers at the time: Byzantium to the north and the Sasanian empire to the east. A decade later the hitherto Byzantine territories of Palestine, Syria, and Egypt as well as the formerly Sasanian Iraq and Persia had been conquered. By 732 C.E. (a hundred years after the Prophet's death), *Dar al-Islam* (the Abode of Islam, as classical Muslim jurists and historians used to say) extended from Spain and southern France across North Africa, Syria, Iraq, and Iran to India and to central Asia as far as China. The rapid advance of Islam

during the early phases of its history into Western Europe was stopped by Charles Martel at the historic battle of Poitiers near Tours (known in Muslim historical accounts as *balat al-shuhada'*, i.e., the court of the martyrs) in 732 C.E. On the eastern flank of Europe, the Byzantines—although they had quickly lost many of their former colonies in western Asia and North Africa—were able to hold back successive Muslim attempts to take the whole of Anatolia and cross the Dardanelles until 1453 C.E., when the Ottoman Turks under their young sultan Muhammad the Conqueror (Mehmet al-Fatih) took the Byzantine capital city, Constantinople, and transformed it into what is still Istanbul.⁷

Meanwhile, however, Islam continued to spread—sometimes rapidly, other times haltingly and slowly—elsewhere in the world so that by the time of the conquest of Istanbul and the European discoveries toward the end of the fifteenth century, Islam had become firmly established across vast territories extending from the Atlantic coast of West Africa across the Sahara and the Sahel to East Africa, the Maldives, India, Malaysia, Indonesia, and the Philippines in South and Southeast Asia as well as the southern parts of China.

As the late Professor G. E. Von Grunebaum at the University of California said, with special reference to the early phases of the spread of Islam, “[t]he spectacular success of the Arab Muslims in establishing an empire by means of a small number of campaigns against the great powers of the day has never ceased to stimulate the wonderment and the admiration of the Muslim world and Western scholarship.”⁸ No less remarkable is the fact that Islam’s ability to continue spreading and to successfully integrate widely different societies was not confined to periods during which Muslims enjoyed political supremacy, economic prosperity, and sociocultural vigor and superiority. It continued to spread and transform the lives of many even when Muslims were weak and under the direct control of invaders and colonial rulers. The outstanding example of the resilience and continued integrative capacity of Islam under such conditions in pre-modern times arose in connection with the devastation of the ‘Abbasid caliphate by the Mongols, who under Hulaku Khan laid Baghdad to waste in 1258 C.E.⁹ In due course, however, the conquered Muslims managed—in Von Grunebaum’s word—to “debarbarize” the invaders and absorbed them in the mainstream of Islamic civilization.

In modern times, it is well known that although they were militarily crushed and their lands and themselves put under colonial rule from Nigeria and Senegal in West Africa to India and beyond in Asia, Muslims

were still able not only to survive but also to spread their faith and civilization in vast areas where Islam had not previously taken root.¹⁰ Evidently baffled by the unusual combination of unity and variety that thus came to characterize the international Muslim community, some observers have tended to minimize or underestimate the local and regional differences that exist between various parts of the Muslim world and suggest instead that the allegedly forceful imposition of the *shari'a* artificially and involuntarily amalgamated disparate elements into a set pattern of uniformity throughout. Others have argued that, far from being united in any meaningful sense, the Muslim world is a vast conglomeration of disjointed peoples and cultures. It is therefore more appropriate and meaningful to speak, so the argument continues, not of Islam as one religion or way of life, nor of the Muslim *Umma* as a recognizable entity in its own right, but of Islam, in this age of nations and nationalism, as a component of particular national or ethnic groups: Turkish Islam, Arab Islam, Malaysian, or Southeast Asian Islam, Nigerian or sub-Saharan African Islam, and so forth.

Needless to say, however, neither of these two partial and contradictory approaches accounts for the facts of the situation. The fact of the matter is that as far as the global Muslim community is concerned, there is both unity and variety. In this context, the two attributes are not mutually exclusive. The situation may be likened to a mosaic or symphony, in that each constituent part or tune, while distinct and complete in itself, is united with others to form a harmonious and integrated whole.

The question then arises: How and by what modalities has this remarkable arrangement of unity in variety evolved or been brought about? The question becomes particularly pertinent when one recalls the fact that there is no church or churchlike organization in Islam and that therefore Muslims did not traditionally have missionaries and missionary societies such as those that different Christian denominations have used for many centuries and continue to use today. The call to Islam (or *da'wa*, as it is called in Qur'anic terminology) has traditionally been carried out by individual Muslim traders, teachers, soldiers, physicians, and so forth in the course of their normal daily activities. In more recent times, regional and international *da'wa* organizations have been created to channel and complement traditional individual efforts.¹¹ Regardless of the nature and significance of efforts made by individuals and groups, however, it is evident that the very nature of Islam as a multifaceted or comprehensive system of beliefs, values, and principles that address and appeal to human nature

in all its aspects—material and spiritual, rational and emotional, individual and collective—seems to facilitate the survival of Islam, even under adverse circumstances, and an ability to spread and continuously integrate many and varied types of groups and individuals within the corpus of the *Umma*.

To begin with the spiritual or purely religious aspect, it is well known that the message of Islam, unlike that of, for example, Judaism or Hinduism, is not confined to a particular group or segment of mankind, but is addressed to all human beings irrespective of ethnic origin, cultural background, and gender or social class. In essence, it is a call to mankind to live in full awareness of and with due regard toward God, or Allah, the creator of the heavens and the earth and of humans and all other beings—animate and inanimate, on earth and beyond. As such, Islam is described in the Qur'an as *Dīn al-fitrāh*, the faith of "primordial nature" or "natural disposition,"¹² connoting the inborn, intuitive ability of humans to discern between right and wrong, true and false, and thus to sense God's existence and oneness. The ability to perceive the existence and oneness of the Supreme Power is inherent in human nature, but it may or may not be subsequently blurred by self-indulgence or adverse environmental influences.¹³ The message of Islam, which is described in the Qur'an as basically the same as that of all earlier messengers, including Abraham, Moses, and Jesus, but culminating with Prophet Muhammad, is directed to human reason, senses, and emotions. Force and compulsion are expressly and unequivocally excluded: "There shall be no compulsion in matters of faith,"¹⁴ the Qur'an clearly and categorically states. Volition, choice, and therefore responsibility for one's actions are of the essence.

The simplicity (in the sense not of naiveté or simplemindedness, but of clarity, coherence, and logical consistency) of the message is matched by the simplicity of the procedure of joining the *Umma*. Unlike, for example, Christianity, in which lengthy preparation and special arrangements are required, joining the *Umma Islamiyya* requires no more than the solemn attestation of the *shahada*, the declaration of commitment and belief in Allah, the one and only true god, and the Prophethood of Muhammad, the last of his messengers to humanity. Instruction in the theory and practice of the faith follows, rather than precedes, becoming a member of the *Umma*.

In view of the above considerations (coupled with the oppressive conditions in which they had previously lived), innumerable millions of people—including many Jews, Christians, Zoroastrians, Hindus—gradually embraced Islam. Not unnaturally, many neo-Muslims of whatever background they may have been tended to bring with them at least some elements of their previous religious beliefs and practices. Continued education as members of the *Umma*, however, coupled with the clarity and simplicity of the principles and teachings of Islam, ensured the progressive elimination of extraneous beliefs that were inconsistent with those of Islam, while others (not contrary to the teachings and principles of Islam) were accepted and in due course "Islamized," or integrated in the rich and colorful cultural tapestry of the Muslim world. Having thus joined the *Umma* and, like other fellow Muslims, ascertained—with the help of 'ulama as necessary—the consistency of their thoughts and conduct with the basic teachings of the Qur'an and the *Sunna*, neo-Muslims, like older members of the community, would strive to attain progressively higher levels of spiritual enlightenment, moral integrity, aesthetic refinement, and intellectual sophistication—as well as physical and material well-being. Major landmarks on this long and often arduous fundamentally spiritual and moral journey include a stage at which the human soul is described in the Qur'an as "certainly prone to evil"¹⁵; another when it becomes "self-reproaching" and anxious to eschew evil¹⁶; but finally emerges as a "righteous soul," which would then be called upon to "come back Thou to Thy Lord" and thus rest in complete tranquility and satisfaction.¹⁷

The attitudes of society and the state through much of Islamic history toward the race question and other religions also contributed to the rapid expansion of Islam and the integration of innumerable different communities into what eventually emerged as a characteristically multiethnic and multireligious Muslim *Umma*.

The categorical Qur'anic prohibition of compulsion in matters of faith, coupled with the equally binding prophetic *Sunna* as expressed first in the Charter of Madina (whereby Muslim immigrants from Mecca and their Madinan hosts were declared "a single community [*Umma*] apart from all other people" and their Jewish allies were also declared to constitute "a community with the believers") and second by the pledge given by Prophet Muhammad to the Christians of Najran (whereby they were

guaranteed safety "for their lives, their religion and their property") subsequently induced Christians in Syria and Egypt who had been oppressed by their Byzantine coreligionists to aid and welcome Muslim Arab armies as liberators. Similar situations in Sasanian Iraq to the east and as far in the west as Spain, where the Jews had for long been oppressed and discriminated against by the Visigoths, produced similar results. These points will be discussed in more detail in chapters two and three. What needs to be mentioned now is that the same pattern of events continued to unfold farther afield and at different times, but on the basis of the same underlying logic. Thus, in Bengal, for example, "Muslim missionaries were welcomed with open arms by the aborigines and the low castes on the very outskirts of Hinduism, despised and condemned by their proud Aryan rulers."¹⁸ Islam, it was observed, appealed to the people at large and the poor in particular because "[i]t brought in a higher conception of God, and a nobler idea of the brotherhood of man."¹⁹

Similarly, oppressed Africans, both in Africa itself and across the Atlantic in the West Indies and the United States, were in many cases attracted to Islam. Particularly interesting in this connection were the views of Dr. Edward Wilmot Blyden (1832–1912), often described as the "Father of Pan-Africanism," who first coined the term "the African Personality" and eloquently sought to elucidate its meaning and define its essence. An ordained minister and Christian (Presbyterian) missionary from the West Indies, Blyden lived in Liberia, where he served as professor of Arabic and president at Liberia College, was secretary of state, and held diplomatic missions to England. For him, however, Christianity had clearly come to Africa "not to save souls but to rule bodies," exhibiting all the signs of pride, ignorance, imperiousness, and self-righteousness while lacking spirituality and humility.²⁰ By contrast, Blyden gradually came to admire Islam with its total lack of racial intolerance and its emphasis on human dignity. "The Mohammedan religion," he wrote, "seeks for the real man, neglects the accidental for the essential, the adventitious for the integral. Hence it extinguishes all distinctions founded upon race, colour or nationality. To the African . . . the religion of Islam furnishes the greatest solace and the greatest defence. . . . The foreigner never fails to respect him when he presents himself with the badge of the faith of Mohammed."²¹

As if to confirm Blyden's most pointed charges against Western Christianity's negative role in Africa, the Dutch Reformed Church of South

Africa later provided religious justification for the doctrine of apartheid on the basis of biblical (Old Testament) reference to the children of Ham as having been divinely predestined to live as "hewers of wood and drawers of water," that is, as slaves and servants for the children of Sam. In that situation, marriage and indeed all forms of human contact between whites and others were vehemently condemned as evil and illegitimate by both Church and State. It was in this context that the Afrikaner minister P.J.S. de Klerk typically argued that "Equalization leads to the humiliation of both. Mixed marriages between higher civilized Christianized nations and lower nations militates against the word of God. . . . [It] is nothing less than a crime. . . . The Voortrekkers constantly guarded against such admixture and because of their deed of faith the [Afrikaner] nation was conserved as a pure Christian race."²²

By contrast, Blyden, having carefully studied Islam and closely observed the conduct of Muslim communities in Liberia, Sierra Leone, and elsewhere in West Africa as well as the Middle East, pointed out that Islam was not an imperialistic religion rooted in Arab expansionism; its proselytizers were self-effacing, not self-seeking, coming usually as businessmen to trade, to settle, to marry, and to offer the advantages of Islam to their neighbors and friends. Islam always brought literacy and learning, and its centers contained scholars and teachers of wisdom and cultivation. It taught sobriety and simplicity and, by uniting the people in a strong bond of faith and brotherhood, provided the basis for an improved economy and sturdy polity necessary to withstand the onslaughts of pagan slavers.²³

Dr. Blyden may have been the most articulate and influential critic of Western Christianity and admirer of Islam among the Christianized blacks of the Western hemisphere during the nineteenth century, but he was by no means the only one. Several others, who played comparable parts in shaping the then nascent Pan-African nationalist sentiments on both sides of the Atlantic, held similar views with regard to both Christianity and Islam. Prominent amongst these was Bishop Henry McNeal Turner (1834–1925) of the African Methodist Episcopal (A.M.E.) Church. A leader in the black missionary movement to Africa, Turner, like Blyden, traveled to Sierra Leone and Liberia. Writing from West Africa during the 1880s, Turner reported: "These black Mohammedan priests walking around here in their robes with so much dignity, majesty and consciousness of their worth, are driving me into respect for them.

Some came for hundreds of miles from the country—out of the bushes—better scholars than in America. What fools we are to suppose that these Africans are fools! . . .”²⁴

Addressing a “Congress of Africa” that was convened in Atlanta in 1895, John Henry Smyth (1844–1908), the U.S. Consul General in Liberia in the 1880s, also praised the Muslim communities of West Africa and criticized missionaries who tried to subvert Islam: “Africans cannot be influenced by aliens, who, however Christian seek to subvert their manhood. . . . Of the foregoing Races [of Sierra Leone] there has been no acceptance of foreign influence. These races represent a very high and unique type of Mohammedanism and Arabic training. . . . They are not controlled by the Arab, the Persian or the Turk, as to their conception of the Koran.”²⁵

By contrast, John Edward Bruce, probably the leading African American journalist at the time wrote that: “[The] white church of America . . . preaches and perverts the Gospel [and] by indirection and evasion denies the brotherhood of man . . . [and] makes the Black man who loves Jesus feel his inferiority and that he is a degree or two lower than the white Christian and a ward rather than an equal before God.”²⁶

It was in this context of widespread disillusionment with Western Christianity as practiced in the United States on the one hand, and admiration of Islam, especially as discovered in Liberia and Sierra Leone by people (such as Turner and Blyden) who had gone to West Africa as propagators of Christianity on the other, that fledgling African American groups began to identify themselves as Muslim during the first two or three decades of the twentieth century. First amongst these was the Moorish Science Temple of America, which was founded in 1913 by Noble Drew Ali.²⁷ There has been a substantial proliferation of such groups since.²⁸

Among these, the Nation of Islam (designated “Black Muslims” by its adversaries) has emerged as the most popular and, as far as the American media are concerned, as the prototype of Islam in the African American community.²⁹ The Nation of Islam was established by Elijah Muhammad (1897–1975) and was carried forth by his disciple Malcolm X (1925–1965), who later split from Elijah Muhammad. A core notion in the ideology that the movement shared with several other groups was that the African American community was a “lost nation” that needed to be reconnected to its origins and that Islam was the way to achieve the required reconnection and hence the restoration of the nation’s human worth. It may therefore be described as an African American supremacist

ideology forged with some teachings of Islam in response to white supremacy and oppression in the United States.

Having been profoundly impressed by his *hajj* experience and what he then encountered firsthand of the unity and brotherhood of Muslims regardless of ethnic and cultural differences, Malcolm X jettisoned supremacist notions of all kinds and, following his break with Elijah Muhammad in 1964, began advocating Islam as it has always been understood by its adherents around the globe as an international faith community with a universal moral mission for all human beings.³⁰ This is the position that has for many years now been represented by Imam Warith (Wallace) Deen Muhammad and his followers, since renamed as the American Muslim Mission. By contrast, the faction led by Minister Louis Farrakhan, on the other hand, is essentially a continuation of the syncretistic sect originally established by Elijah Muhammad in Detroit, Michigan, during the 1930s. Not insignificantly, therefore, Farrakhan’s group continues to maintain the original name, The Nation of Islam. Although Nation of Islam ministers are trained in bonafide Islamic studies and the community as a whole embraces the core values of Islam, the old belief in the separation of races continues. Moreover, ministers use both the Bible and the Qur’an, and the community celebrates a “December fast” distinct from Ramadan.

Also significant for the Muslim presence in North America were the repeal of the Canadian Oriental Exclusion Act in the 1960s and the entry of Canada into the British Commonwealth of Nations. Substantial Muslim community developments numbering around 5.5 million adherents in Canada and the United States have since taken place.

Apart from basically religious and sociopolitical factors such as have been briefly indicated above, intermarriage and ethnic mixing have also played important roles in both the propagation of Islam and the forging of closer links between previously separate Muslim communities around the world. As the first propagators of Islam, Arabs did not establish themselves as a superior caste or class of lords and masters beyond the reach of other mortals, but freely mixed and intermarried with Spaniards in Andalusia, with Berbers in North Africa, and with Copts and Nubians in the Nile Valley, as well as with the many and varied peoples of the Levant, Persia, central Asia, India, Southeast Asia and China.

Following the example of the Arabs and spurred by the teachings of the Qur’an and the Prophet regarding the unity of mankind on the one

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hand and the merits, on the other, of travel, trade, and especially the pursuit and dissemination of knowledge wherever possible, other Muslim peoples moved over vast territories of *Dar al-Islam* and beyond and frequently intermarried with those whom they came to know and especially those with whom they shared Islam as a common faith and way of life wherever they happened to be. Thus, many of the Berbers and Tuaregs of North Africa and the Sahara married into the Wolofs and the Fulas of West Africa while they, in turn, intermarried with the Hausas and the Borno, the result being a cumulative process of racial and ethnic integration among Muslim societies inhabiting vast areas of North, West, Central, and East Africa. The process was paralleled elsewhere in the Muslim world, from central Asia, China, and Iran to East Africa, the Indo-Pakistani subcontinent and Southeast Asia. In due course, intermarriage became a well-established Islamic tradition and one that greatly helped both the propagation of Islam and the consolidation of human relations between various regions and communities across the Muslim world and beyond.

Following the already well-established Islamic tradition, it is not surprising that African, Turkish, Arab, Kurdish, Indo-Pakistani, and other Muslim (mainly male) immigrants who settled in various West European countries especially since World War II have in innumerable cases married local women, the final result being that many of the second- and third-generation Muslims of Western Europe today have German, French, British, Scandinavian, and other European mothers.

Writing in the mid-1990s meanwhile, Jan Goodwin pointed out that "of the approximately eighty thousand recent white converts in the United States 80 percent are women, the majority of whom have converted to Islam on marrying Muslims."³¹ Results obtained from a 1993/1994 statistical survey of American-born women who had converted to Islam in the United States and Canada also revealed that the majority (62 percent) converted after marrying Muslims, with only 38 percent converting while still single.³²

Beyond purely religious, sociopolitical and personal factors, many non-Muslim men and women—including the 38 percent in the above-mentioned survey—were initially attracted to Islam by intellectual, aesthetic, or artistic manifestations of Islam as a civilization and way of living (e.g., architecture, calligraphy, philosophy, and poetry), and only subsequently did they turn to the close study and appreciation of the

basic beliefs, values, and principles of Islam.³³ With increasingly improved communications and travel systems, this factor is likely to become increasingly more important in the future. Another primarily cultural factor that has eased the transition of many Americans to Islam is the similarity between many of the core values and beliefs of Islam and Americans, including monotheism, egalitarianism, pluralism, and belief in the importance of justice.

RISE OF HUMAN RIGHTS CONCERNS

ONE OF THE great triumphs of humanity after World War II was the inspired conceptualization and promulgation of the Universal Declaration of Human Rights on December 10, 1948. The Declaration, together with the two international covenants that were patiently and diligently negotiated in the course of subsequent years, namely the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights of 1966, have since come to be collectively known as the International Bill of Human Rights.

Viewed as a whole, the International Bill of Human Rights, and more especially the two covenants of 1966, can fairly be described as having been the fruit of sustained efforts that were collectively made by many men and women representing different countries, cultures, and faiths working together through the United Nations. Their goal was the establishment of a better world on the basis of what were, by and large, seen at the time as commonly shared principles of justice and international cooperation for the benefit of all.³⁴

By comparison with the two covenants, however, the Declaration was from the beginning subjected to many criticisms and reservations. This was in large measure the almost inevitable consequence of the fact that the Declaration was composed by a smaller, less representative, and predominantly Western body of men and women at a time when the great majority of the Afro-Asian states were then still under colonial rule. They played no part whatsoever in the making of the Declaration. Consequently, none of the many ideas and ideals that were subsequently widely and often passionately discussed and debated as, or in connection with, "Asian Values,"³⁵ "Negritude," and "The African Personality"³⁶ had any chance of even being considered when the Declaration was drafted.

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From a global and, more specifically, religious point of view, the issues that came to cause concern and dissatisfaction can be said to have fallen into two broad categories. One category subsumed grievances and reservations that have been made by leaders of major religions—Buddhism, Confucianism, Hinduism, Judaism, Christianity, and Islam, often acting in concert. Although acting together over a number of issues of fundamental importance, however, leaders and spokespersons of the different religious traditions of the world have not infrequently expressed their views separately and not necessarily always in harmony with those of other faith communities.

Among the major concerns of the international faith communities regarded as a group is the shared conviction that, although religions have historically pioneered some of the most important "building blocks"³⁷ of human rights—including notions of human dignity, justice, and social solidarity—along with the basic spiritual and ethical outlooks on life that they have evolved and cultivated over the ages, religions have, for a variety of historical and ideological reasons,³⁸ been largely sidelined in the Declaration as well as in many of the covenants, conventions, and declarations that have ensued since. In fact, reference to God, which was suggested by the representative of Brazil during the debate on Article 1 of the Universal Declaration, was explicitly and consciously excluded from the Declaration as well as from the covenants that were subsequently promulgated.³⁹

A second major source of collective disenchantment on the part of world religions has been the suggestion repeatedly made by some, apparently with a view to conciliating faith communities around the world, that a supportive role be assigned to religions vis-à-vis the Declaration and related human rights documents.⁴⁰ The proposal seems to confirm the commonly and often openly expressed view that religions, far from being bona fide sources of human rights, are actually obstacles that hinder the protection and promotion of human rights. As such, religions, it is often implied or explicitly stated, should be confined to the private sphere of life. At best, they should be given a supportive or secondary role in the human rights system as it exists now. For those who continue to hold on to such traditional views, as Chandra Muzaffar has eloquently said, the Declaration and the related charters "represent the acme in the human rights struggle. . . . There is nothing more to accomplish. It is futile to try to raise other concerns in the hope that they will help us to refine our understanding of human rights. It is foolish to rethink the

concept of human rights in order to incorporate ideas from religion . . . the human rights tradition as it exists is sacrosanct. It is a deity that is worthy of worship."⁴¹

The fact that the Universal Declaration was basically a reflection or embodiment of Enlightenment and post-Enlightenment secular, individualistic, and classical liberal values constituted the third, and perhaps the most fundamental, source of collective dissatisfaction on the part of the world religions. Not unexpectedly, therefore, representatives and spokespersons of faith communities around the world have for several decades now persisted in trying to find or otherwise open up ways and means whereby the fundamentally secular and individualistically oriented human rights concepts enshrined in the Declaration and its complementary covenants may be further refined and their provisions balanced by infusing them with such religiously based notions as spirituality and responsibility. The launching of the Project on Religion and Human Rights, which took place in New York in July 1993, was an important landmark in that regard.⁴² Subsequent stages in the development of this initiative included the drafting and adoption in principle, on the fiftieth anniversary of the Declaration and also the fiftieth anniversary of the establishment of the Faculty of Religious Studies at McGill University in Montreal, of an important working document called "A Universal Declaration of Human Rights by the World's Religions."⁴³ This was further polished and, in various ways, amended and improved upon in a series of conferences that were convened in California, New York, Durban, Barcelona, Paris (at the United Nations Educational Scientific and Cultural Organization [UNESCO] Headquarters), and finally, at Genting Parmai Resort, Malaysia, in November 2002. Still offered as a draft and modestly described as "a fluid text, yet to be fixed," the newly proposed Universal Declaration has since been published, together with a number of comments and studies representing several world religions, in book form.⁴⁴

It is not necessary here to discuss the proposed new Declaration beyond what has already been said above. Suffice it to note that representatives of world religions, working in close cooperation with human rights specialists and advocates of various persuasions over several decades, have gone a long way toward the realization of their common objective. Perhaps a future Universal Declaration of Human Rights will be characterized as justly balanced, with responsibilities alongside rights and recognition of communal as well as individual rights, and the spiritual

and ethical resources of humanity will be allowed to freely and uninterruptedly nourish humanity's perennial quest for dignity, justice, and freedom.

While fully sharing the concerns and reservations collectively felt by the world religions about the tenor and structure of the existing international system of human rights in general, Islam has also had several concerns of its own. An early and somewhat dramatic demonstration of some of the problems and concerns that would subsequently confront the world of Islam was the unexpectedly sharp confrontation that took place in 1948 at the U.N. headquarters in New York between Sir Muhammad Zafrullah Khan (1893–1985), then the foreign minister of Pakistan, and the representative of Saudi Arabia at the United Nations, Jamil al-Barudi, over Article 18 of the Declaration, which provides for the right to freedom of conscience, including the right to change one's religion.⁴⁵ At issue in this confrontation, and in the many debates and discussions that have since taken place and engage numerous individuals, groups, and governments throughout the Muslim world today, was the basic question of what position or positions Muslims, individually and collectively, should take with respect to human rights as presently enshrined in the Declaration and the covenants.

To be sure, most Muslim states have officially accepted the Declaration as well as the two covenants on human rights, with or without reservations. Some have gone further and actually established governmental departments or organizations with the declared objective of ensuring strict observance of human rights by official government organs as well as by members of the public. In several others, however, public discussion of human rights is virtually a taboo, and those who insist on trying to create forums for the purpose or otherwise seek to stimulate public interest in the subject risk being considered subversives or enemies of the state—and are treated accordingly. Partly for this very reason, however, human rights, though often differently understood and regarded by different groups and individuals, continue to engage many throughout the Muslim world. As a result, numerous human rights organizations, of both the home-grown variety and those that derive their inspiration and sustenance from foreign sources, continue to flourish, clandestinely or with grudging official approval, and very much under the watchful eye of state security agencies.⁴⁶

MUSLIMS AND HUMAN RIGHTS

IN SUCH CIRCUMSTANCES, it is not surprising that healthy debate on the many important and often complex issues that need to be systematically explored and, as far as possible, resolved is in certain countries almost totally lacking. Instead, views and positions in such places tend to be both sharply polarized and deeply politicized.

Three principal factors seem to account for the absence of anything remotely resembling a general consensus on the subject and the predominance instead of frequently polarized and acutely conflictual situations regarding human rights across the Muslim world. First among the factors in question is the long-established and highly sophisticated human rights tradition of Islam. Like its equivalents in other religious traditions, it has remained firmly rooted in divine revelation and belief in God, whereas the modern, principally Western, Enlightenment concepts of human rights on which the International Bill is based are, by contrast, thoroughly secular and human-centered. While the two may and, in practice, do often meet or coincide in a number of cases and issues, at the philosophical level, the two inevitably differ and will probably continue to be irreconcilable.⁴⁷

A second major source of tension between characteristically traditional Muslim sociocultural norms and practices, on the one hand, and such modern values and principles as are enshrined in the Universal Declaration and the two covenants on human rights, on the other, is that many of the former have historically been evolved in ways and manners that have often been at variance not only with modern Western equivalents, but also with the fundamental values and principles of Islam as enshrined in the Qur'an and the *Sunna* as generally understood by the global Muslim community (or *Umma*). Many of the departures from basic norms and principles that are universally recognized as such by Muslims of different schools of thought (or *madhhabs*) had initially been introduced or adopted, at particular points in time, as empirically necessary but, hopefully, temporary compromises. But these have often been perpetuated and have gained some measure of legitimacy as established traditions hallowed by *ijma'*, or general consensus.⁴⁸ What is and what is not truly Islamic has therefore continued to be an open and often hotly contested question across the ages.

A third factor that has in no small measure contributed to the less than wholehearted reception of Western concepts of human rights in the

Muslim world has been the long and calamitous process of colonialism, which, gathering momentum from the sixteenth and seventeenth centuries onward, resulted in the occupation and subjugation by various Western powers of the entire Muslim world. This extended from the Atlantic coast of West Africa to China and the Philippines in the east, and from the Balkans, the Caucasus, and central Asia in the north to equatorial Africa in the south. Among the effects of these developments has been the complete destruction of traditional institutions and centers of learning and authority in much of the Muslim world, with far-reaching consequences not only for Muslims and the Muslim world, but also for their neighbors and others around the world.

The recovery of political independence by many of the colonized peoples of the world, both Muslim and non-Muslim, after World War II had the generally positive effect of clearing the way for the growth and development of healthier relations and better understanding between the West and what is often described as "the rest," which includes the Muslim world. Unfortunately however, many of the hopes that had been raised in the first half of the twentieth century were snuffed out as a result of several developments. Among these was the establishment in Palestine of what was described in the Balfour Declaration (1917) as "a national home for the Jews," the state of Israel, which has had serious consequences for regional peace and security. This was further complicated by the emergence of new forms of imperial penetration and manipulation of many nominally independent Muslim states. Then, the tragic events of September 11, 2001, led to the U.S. invasion and occupation of Afghanistan and Iraq, all at a time when the already desperate situation in Palestine has continued to deteriorate. Particularly devastating in this connection has been the excessive and frequent use of violence against unarmed civilian populations in Afghanistan, Iraq, and the occupied Palestinian territories. Also noteworthy is the recent brutality exercised by Coalition forces of occupation in the Abu Ghraib prison near Baghdad.

Consequently, throughout the Muslim world at present there are four broad types of attitude regarding human rights as enshrined in the Universal Declaration and its two covenants. First, there is a widespread attitude of skepticism, and even downright rejection of "human rights talk" as idle, fraudulent, and, for all intents and purposes, useless. People who think or speak in this manner usually cite policies and instances, both past and present, that are indicative of actual or perceived duplicity on

the part of Western, or Western-oriented, Muslim states and governments, whose leaders and representatives often speak rather earnestly about democracy and human rights but whose actions and practical conduct, especially in matters affecting Islam and Muslims, have time and again contradicted their words. The attitude and outlook of those who fall in this category can perhaps not unfairly be said to have been historically and psychologically determined.⁴⁹ But there are others who are equally dismissive of human rights as embodied in the International Bill for philosophical rather than historical or psychological reasons. These writers and observers focus on the secular nature of the substance and foundations of the basically Western character of the International Bill and argue that because secularism and Islam as a religion are fundamentally irreconcilable, then the allegedly international but actually modern Western human rights concepts of the Declaration and its complementary covenants should clearly and uncompromisingly be seen as alien to Islam and therefore unacceptable to Muslims.⁵⁰

The second trend accepts the International Bill of Human Rights and seeks in a generally apologetic fashion to prove that for Muslims there is really nothing new in what the Universal Declaration and its complementary covenants have to say about human rights. It is often rhetorically and polemically claimed that the Holy Qur'an, the *Sunna*, and the interpretations thereof that have been made by the great scholars-jurists of the past—have already covered the subject—and in a much more perfect form. Typical examples of the positions taken by representatives of this trend are the host of Islamic declarations of human rights that, crafted by various individuals, groups, and governmentally sponsored organizations during the last two or three decades, have generally tended to be remarkably similar, in form as well as in substance, to the Universal Declaration. While similarities between this and the classical human rights tradition of Islam are thus emphasized, if not actually exaggerated, the many important differences between the two, whether in their underlying philosophies and assumptions or in many other important points and issues, are minimized, explained away, or simply ignored.

In the newly independent states of the contemporary Muslim world, ruling elites consist primarily of people who have been trained in secular-oriented colonial or, after independence, colonial-type schools and institutions of higher education and who have consequently been to a greater or lesser extent Westernized and thus also, if subtly, de-Islamized. This is a third strand. Their knowledge of Islam, whether as a faith system or as

a civilization and way of living, is often quite modest and in most cases derived from non-Muslim and mainly Western sources. As the ruling elites of their various countries, the individuals and groups in question have not on the whole been among the most ardent defenders of human rights. Nevertheless, they do tend to accept, or even applaud, the International Bill as the one and only possible or bona fide system of human rights. Such choices, however, are not necessarily made as a result of profound understanding or thorough examination of the Universal Declaration's provisions and philosophical foundations, but as yet other manifestations of the deeply engrained tendency to accept the familiar modes or expressions of modern Western culture in which they have been nurtured, whether locally or in the metropolitan "mother country." Such attitudes and tendencies are particularly noticeable among those throughout the Muslim world who have been influenced by Marxist and other atheistic types of modern Western thought and specifically in the former French colonies where cultural assimilation has been a basic principle and objective of administrative and educational policies and where secularism has continued, even decades after the attainment of formal independence, to be regarded by some as an almost sacred tenet or article of faith, as in the example of France.

In a fourth category are people who have also been exposed to modern Western thought and culture but who have not lost their moorings in Islamic thought and belief and have acquired or developed a deeper and much clearer critical understanding of the two traditions. For these people both the principles of human rights and the teachings of Islam enshrined in the Qur'an and the *Sunna* are regarded as matters of absolute importance. Typical representatives of this trend would unhesitatingly join hands with the late Ayatollah Mahmud Taleqani of Iran, who was utterly convinced that the mission of Islam is one of freeing people from all forms of enslavement, including those that would inevitably result from alliances forged between unscrupulous rulers and unprincipled religious authorities.⁵¹ The first Muslim woman to be awarded the Nobel Peace Prize, Shirin Ibadi, also of Iran, is a typical representative of this trend. Awarded the 2003 Nobel Prize in recognition of her work promoting the rights of women and children in Iran over the past three decades, Ms. Ibadi "sees no conflict between Islam and fundamental human rights."⁵² She has refused to call herself a feminist, maintaining that the problems of women can not be separated from those of society as a whole. What

she struggles against, therefore, is not Islam, but what she calls the patriarchal culture of Iran,⁵³ that is, the conservative and traditionalist interpretations of a religion and a civilization whose true mission, in words that would join Ayatollah Taleqani's vision to that of Shirin Ibadi's, is the emancipation of people, both men and women, from all forms of tyranny and oppression—even, and especially, if these interpretations were imposed in the name of Islam.

THE PLAN OF THIS WORK

FOLLOWING THIS INTRODUCTION, Islam and human rights will be dealt with in five chapters. In chapter 1 major distinctive features of the Islamic tradition of human rights will be reviewed. In chapter 2, "Basic Teachings and Principles," the worldview of Islam, especially as presented in the Qur'an, will be considered in relation to human rights, and the structure of rights and obligations of humanity in Islam will be introduced. This is not meant to be an exhaustive or detailed account of the many subjects that are considered here. Rather, it is intended to give some idea of the range or scope of rights (and duties) that are covered in the Islamic tradition and of the way in which the constituent parts thereof relate to each other. In chapter 3, the growth and development of tensions between prescriptive theory as enshrined in the Qur'an and the *Sunna*, on the one hand, and sociopolitical practices as they evolved in history, on the other, will be examined. This will be done with special reference first to the life experience, as distinct from the juridical status, of non-Muslims in Muslim societies and, second, in connection with matters of gender and the position of women in Muslim societies. Chapter 4 will be dedicated to a review of the transformation of traditional Muslim societies, especially those impacted by colonial domination, as well as to an examination of the three distinct but not infrequently overlapping patterns of responding to the civilizational crisis with which the Muslim world is currently faced, with serious consequences for the human rights of the Muslim and non-Muslim peoples concerned. In chapter 5, "Islam, Democracy, and Human Rights," some of the principal issues involved are analyzed in the context of the historical evolution of representative countries of the contemporary Muslim world. The main text will end with "Concluding Remarks," in which the themes and issues discussed in

the book will be reviewed and a brief assessment of future prospects made. The five chapters and the concluding remarks will together constitute Part I of the book. Part II will consist of selections from primary sources of human rights in the Islamic tradition, together with biographical sketches of some leading human rights thinkers and activists in the Muslim world, followed by an annotated bibliography and index.

CHRONOLOGY |

- 610 C.E. Commencement of Muhammad's mission as Prophet with revelation of the first verses of the Qur'an. The teachings of the Qur'an included the following: the oneness of God and of mankind, the dignity of man, the sanctity of human life, justice for all, respect of privacy, social solidarity and mutual aid, freedom of conscience, and participation in public affairs.
- 622–632 The launching of *Sahifat al-Madina* (the Charter of Madina) and the emergence of the first characteristically multi-ethnic and multireligious Islamic state and *Umma* (i.e., the international community of Muslims).
- 632 The Farewell Sermon is delivered by Prophet Muhammad during the *hajj* season at 'Arafat shortly before his death. Recapitulation of basic teachings of Islam with special emphasis on brotherhood, justice, and the importance of decent and courteous treatment of women.
- 8th–9th centuries C.E. The emergence of the earliest large-scale schools (*madhhabs*) of law and jurisprudence based on the systematic works and teachings of a number of distinguished scholars, notably Malik Ibn Anas (d. 795), Abu Hanifa (d. 767), Ahmad ibn Hanbal (d. 855), and al-Shafi'i (d. 820).
- Al-Shafi'i's *Risala* was particularly important in the development of Islamic jurisprudence, especially including the

concept of *al-masalih al-mursalah*, or public interest. This, in conjunction with the works of other major *usulis* (specialists in jurisprudence) such as al-Shatibi's classic *Al-Muwafaqat fi Usul al-Ahkam*, later proved to be of considerable interest and importance in the study of a wide range of issues and the consolidation especially of Islamic concepts and schemes of human rights.

1876 The launching of the first modern-style Ottoman constitution and the gradual spread thereafter of liberal and constitutionalist ideas throughout the Muslim world.

1948 Participation of eight Islamic states (Egypt, Iraq, Lebanon, Saudi Arabia, Syria, Turkey, Iran, and Pakistan) in the debates at the United Nations that culminated in the promulgation of the Universal Declaration of Human Rights.

1967 The Sudanese National Committee for Human Rights, evidently the first of its kind in the Muslim world, launched in Khartoum, December 1967. One of its founding members (elected Secretary General) had participated as a delegate to the U.N. General Assembly sessions in 1965 and 1966 in the debates and drafting of the final clauses of the International Convention on the Elimination of All Forms of Racial Discrimination, 1965; the International Covenant on Economic, Social, and Cultural Rights, 1966; and the International Covenant on Civil and Political Rights, 1966.

1975 The Universal Declaration of Peoples' Rights (UDPR) is promulgated in Algeria.

1981 The Islamic Council of Europe at the International Islamic Conference held in Paris launches the Universal Islamic Declaration of Human Rights to mark the beginning of the fifteenth century of the Islamic era.

The Addis Ababa-based Organization of African Unity (OAU) launches the African Charter on Human Rights.

1982 The International Commission of Jurists publishes the report on Human Rights in Islam, incorporating summaries of working papers discussed in a conference on the theme that was organized by the ICJ in cooperation with the Union of Arab Lawyers and the University of Kuwait, December 1980.

1985 The Tunisian Charter of Human Rights (TCHR) is promulgated on July 28, 1985, by the Tunisian League of Human Rights.

1986 The Arab Charter of Human Rights and the Charter of Arab Jurists are launched in Syracuse.

1993 Member states of the Organization of the Islamic Conference launch the Cairo Declaration of Human Rights in Islam on June 9, 1993.

1994 The Arab Charter of Human Rights is formally adopted by the council of the League of Arab States on September 15, 1994.

2003 On December 10, 2003, Shirin Ebadi of Iran (lawyer, writer, former judge, and long-time human rights activist with a special interest in defending and protecting women, children, and intellectuals) becomes the first Muslim woman to win the Nobel Prize in recognition of her work, courage, and dedication.

2004 The Egyptian National Council of Human Rights and the Arab Organization for the Elimination of Racial Discrimination are launched in Cairo.

Part I

Historical Development and Analysis

SOME DISTINCTIVE FEATURES OF THE HUMAN RIGHTS TRADITION IN ISLAM

No one can deny that at its core Islam is entirely consonant with the principle of fundamental rights, including human dignity, tolerance, solidarity and equality. Numerous passages from the Qur'an and sayings of the Prophet Muhammad will testify to this. No one can deny, from a historical perspective, the revolutionary force that is Islam, which bestowed rights upon women and children long before similar recognition was afforded in other civilizations.

Mary Robinson

U.N. High Commissioner for Human Rights at the Symposium
on Human Rights in Islam, convened in Geneva, March 15, 2002

COMPARED WITH CONTEMPORARY approaches to human rights in general, and with the Universal Declaration and the two International Covenants that together constitute the International Bill of Human Rights in particular, the human rights tradition in Islam generally possesses certain distinctive features that mark it off from others and are well worth noting in advance of any detailed scrutiny of any of the many and varied human rights that the tradition contains.

A CLASSIC AND ANCIENT SYSTEM

FIRST AMONG THE distinctive features of the Islamic tradition of human rights is its antiquity, which is closely intertwined with its dynamic and revolutionary nature. Many of the basic elements or "building blocks" of the human rights tradition in Islam—including, for example, the dignity and equality of all human beings irrespective of differences in race, faith, or social status, the right to justice, individual freedom, privacy, and the presumption of innocence, alongside the basic rights of such special groups as children, women, refugees, and prisoners of war—are enshrined in the Qur'an and clearly explained in the sayings and directives of Prophet Muhammad.¹ It was on these and similar foundations that successive generations of 'ulama and other thinkers of Islam, especially from the eighth century on, gradually and systematically built elaborate and comprehensive structures of rights that relate to God, Nature (both animate and inanimate), and humans across the entire range of life in its various modes and conditions as well as death and beyond.

It is important to emphasize that contrary to what might otherwise be thought or presumed, the classic or historically evolved system of human rights in Islam is quite different from the host of Islamic declarations of human rights (see introduction), which have not infrequently turned out to be in many respects surprisingly similar in form as well as in substance to the post-World War II international system embodied in the Universal Declaration and the several ensuing international conventions, covenants, and declarations. For, far from fitting into this pattern of presumed similarity—or even identity—with the existing International Bill of Human Rights, the classic tradition of human rights in Islam is an independent, infinitely richer, and, of course, much older system. Although it does undoubtedly resemble and in many respects coincide with some basic features and provisions of the existing international system, the Islamic tradition of human rights discussed here is, philosophically and when considered as whole, quite distinct, and it differs from the International Bill in many other important ways that cannot be simply ignored or explained away.

Both the antiquity and the distinctive character of the human rights tradition in Islam have often been noted and commented upon by discerning thinkers and scholars, Muslims and non-Muslim alike, even before World War II and the subsequent promulgation of the Declaration and its complementary covenants. Thus, referring to the *shari'a* and, in

particular, to its teachings and provisions relating to human rights, the noted jurist and historian Count Léon Ostrorog, in the course of three lectures that he delivered at the University of London toward the end of June 1927, had the following to say:

Considered from the point of view of its structure, the system is one of rare perfection, and to this day it commands the admiration of the student. . . . If the contents of that logical fabric are examined, some theories command not only admiration but surprise. Those Eastern thinkers of the IXth century laid down, on the basis of their theology, the principles of the Rights of Man, in those very terms, comprehending the rights of individual liberty, and of inviolability of person and property; described the supreme power in Islam, or Caliphate, as based on a contract, implying conditions of capacity and performance, and subject to cancellation if the conditions under the contract were not fulfilled; elaborated a Law of War of which the humane, chivalrous prescriptions would have put to the blush certain belligerents in the Great War; expounded a doctrine of toleration of non-Muslim creeds so liberal that our West had to wait a thousand years before seeing equivalent principles adopted.²

Some two centuries earlier, the English philosopher and political theorist John Locke, one of the chief architects of modern Western liberal thought, urged his compatriots and coreligionists to admire and emulate the way Muslims tolerated Christians and Jews and made it possible for their various denominations to worship freely as they saw fit.³ Pointing out the absurdity of the fact that Calvinists and Armenians, for example, could thus freely practice their faiths in Constantinople but not in Christian Europe, Locke then warned in his classic *Letter Concerning Toleration* (1689) that "the Turks [would] meanwhile silently stand by and laugh to see with what inhuman cruelty Christians thus rage against Christians."⁴

But it was not only John Locke among the major Western thinkers that found various aspects of the long-established Islamic tradition of human rights and its wider matrix of philosophical and social thought attractive and instructive. For, as the distinguished Sri Lankan jurist and former vice-president of the International Court of Justice, C. G. Weeramantry pointed out, there is considerable evidence to suggest that many others, including St. Augustine, Thomas Aquinas, Grotius, Montesquieu, and Jean Jacques Rousseau were in different ways also indebted to the thought and

practice of Muslim predecessors and their civilization, a fact which has, for various reasons, remained largely unacknowledged and, for many people therefore, totally unknown.⁵

The human rights tradition in Islam primarily evolved and crystallized in the context of the classical Islamic civilization during its youthful vigor and golden age from about the seventh to the thirteenth or fourteenth centuries C.E. Remarkably self-confident, pluralistic in structure and beliefs, universalistic in outlook, and open to dialogue with other faiths and civilizations both ancient and contemporary, Islamic civilization was then prolifically creative across an amazingly wide range of fields and disciplines, including speculative and religious thought, experimental and scientific inquiry, technological and engineering skills, commerce, law, jurisprudence, the arts and humanities, and gracious living, as well as in respect to the rights of divine, animal, and human beings (see chapter 2).⁶

In due course, however, classical Islamic civilization, with all its brilliant and multifaceted achievements, gradually began to decline and lose momentum. It finally lost the ability to defend itself against the up-and-coming nations of post-Renaissance Europe and their new and dynamic modern civilization, which had previously learned a great deal and benefited from classical Islamic civilization, especially as seen at close range in Sicily and Spain.⁷ The Treaty of Carlowitz, concluded in 1699, approximately one thousand years after the rise of Islam in the seventh century C.E., proved to be a turning point in the accelerating process of decline and fall that had already set in. By the early decades of the twentieth century, practically the entire Muslim world had been subjected to colonial rule by one Western power or another. The subsequent transformation of economic, political, juridical, administrative, educational, and cultural systems and institutions was so thorough and all pervasive that even decades after the attainment of formal independence by most Muslim-majority states, many—though by no means all—of the leading and ruling elites there, like their opposite numbers in the former colonies around the globe, remain in such a state of severe psychological bondage and cultural alienation that they often find it exceedingly difficult, if not actually impossible, to perceive the world, including themselves and their own cultural traditions, except through the eyes of their former colonial (now, primarily, neocolonial) masters. For such people and their generally parochial mentors in the metropolitan “mother-lands,” any suggestion that there are, for example, Confucian, Islamic, Hindu, or indigenous African traditions of

human rights (from which lessons could be learned that may be helpful in improving the existing international system) appears to be almost self-evidently absurd and incredible or, at the very least, far-fetched, misconceived, and therefore untenable. For them, there is only one, already perfect, virtually sacrosanct and, despite its primarily Western character and origins, truly international system of human rights: the existing system of the Universal Declaration and its complementary covenants.

A THEOCENTRIC AND MULTIDIMENSIONAL SYSTEM

THE SECOND DISTINCTIVE feature that marks off the Islamic tradition of human rights from the existing international system may best be understood against the reality that the latter evolved in the context of the great philosophical and political developments that took place in eighteenth-century Europe, primarily in France and the United States. Of major importance in this connection were the Enlightenment, with its core doctrines (mainly taught by Jean Jacques Rousseau and Immanuel Kant) of the autonomous individual and his inherent rights on the one hand, and the epoch-making French Revolution of 1789 on the other. This, as is well known, overthrew the *ancien régime* with its two pillars of church authority and absolutist monarchy, establishing instead a radically secular and revolutionary republican regime.

Of particular importance is the fact that the French Republic was born out of a prolonged and intensely bitter conflict in which the revolutionary forces had for long been pitted not only against a much-hated absolutist monarchy but, no less importantly, against a particularly insidious brand of Catholic Christianity that, apart from its impassioned role in advocating the doctrine of the so-called divine rights of kings and staunch alliance with a deeply unpopular monarchy, was itself profoundly detested for its obscurantism, intolerance, and religious zealotry. It was in this context that the ideology of the revolutionary republic, crystallized in the historic Declaration of the Rights of Man and the Citizen, which was formally adopted by the National Assembly on August 26, 1789, was honed and indelibly marked with a radical brand of secularism so intense and impassioned that to a sensitive mind such as Alexis de Tocqueville's, it was obviously reminiscent of religious fervor.⁸ Similarly, *liberté* was defined (in Article 4 of the Declaration) in a manner that went beyond hitherto familiar explications of the term. For, whereas Thomas Hobbes

and Montesquieu, for example, had understood liberty as the ability to do anything permitted by the laws, and Kant had argued that a man's liberty extended for as much as was compatible with the liberty of others, the Declaration defined liberty as the right "to be able to do anything which does not hurt others."⁹ Consistent with this expansive mode of comprehending liberty, freedom of religion has since been generally understood not only in France but in the modern Western tradition as a whole as the right to profess any religion or no religion at all.¹⁰

By contrast, the Islamic conception of freedom of religion, along with the entire tradition of human rights in Islam, is firmly rooted in religious faith and throughout has continued to be protected and sustained by the *shari'a* and, indeed, by the Islamic worldview as a whole (see chapter 2). Enshrined in the Qur'anic ruling that "There shall be no compulsion in matters of faith,"¹¹ an injunction that apparently has no equivalent in the scriptures of other faiths, freedom of religion in Islam has from the very beginning been generally (but especially with reference to non-Muslims living in Muslim societies) understood to mean that no person may under any circumstances be compelled to profess a religion that he or she may not freely wish to embrace. Accordingly, non-Muslims living in Muslim societies were, under the *shari'a* and as a matter of Islamic religious conviction, guaranteed the right to life, to own property, to profess their respective faiths, and to bring up their children accordingly. Upholding and protecting the said rights of non-Muslims was a meritorious act by which devout Muslims, individually and collectively, sought God's pleasure and hoped for his rewards. Infringing or compromising these rights, on the other hand, was both a sin, for which the offender or offenders would be held accountable on the Day of Judgment, and a crime punishable by law here on earth.

In contrast to the situation of Jewish and Muslim minorities in Western societies at the time, non-Muslims in Muslim societies were thus enabled not only to survive even the most trying episodes in history into modern times, but also, and not infrequently, to participate in the political as well as the economic, social, and cultural life of the Muslim societies in which they lived. It was this, until recent times, unparalleled tolerance that had so profoundly impressed John Locke, Count Ostrorog, and many others both before and after them. But the Enlightenment and the French Revolution have since brought to the fore, if not actually invented, another and radically different notion of freedom of religion that Muslims have found problematic: namely, the right to profess any religion

or no religion at all. Given the sociocultural and political historical context in which the subject was first broached and has subsequently evolved in modern Western societies, the right to either profess or renounce any religion was naturally seen as a vitally important and liberating principle. Not surprisingly, therefore, the principle of freedom of religion so understood was unhesitatingly and even more elaborately written into the Universal Declaration by its predominantly Western authors. Article 18 of the Declaration thus states: "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others in public or in private, to manifest his religion or belief in teaching, practice, worship and observance."

It was over this provision that the already mentioned dramatic and paradigmatic confrontation took place at the United Nations in 1948 between the foreign minister of Pakistan, Sir Muhammad Zafrullah Khan, and the representative of Saudi Arabia at the United Nations, Jamil al-Barudi.¹² Zafrullah Khan, a member of the Ahmadiyya movement, which was subsequently classified as non-Islamic under Pakistani law, evidently enjoyed the full personal support of Muhammad Ali Jinnah, the founding leader of Pakistan, and had no difficulty in unreservedly endorsing the proposed Article 18 by arguing that the Qur'an itself said, "Let he who chooses to believe, believe, and he who chooses to disbelieve, disbelieve," and adding, for good measure, that the Qur'an formally condemned not lack of faith but hypocrisy.¹³ Al-Barudi, on the other hand, argued that the proposed right to change one's religion, at least for Muslims, was contrary to established laws and could therefore not be accepted; it would, furthermore, "open the door to missionaries [as] precursors of imperialism,"¹⁴ and thus lead to political unrest, or even war. Most of the Islamic delegations reportedly agreed with al-Barudi, and many, but not all, likewise made reservations when the article was put to the vote.

More than fifty years later, most Muslim states and spokesmen continue to fully and unreservedly support freedom of religion in the sense in which the Qur'anically established principle of the inadmissibility of coercion in matters of faith has traditionally been (and for the great majority of the Muslims of the world, continues to be) understood—that is, that no non-Muslim may under any circumstances be forced to profess Islam or any other religion if he or she does not freely wish to do so. However, they invariably continue to qualify their endorsement of Article 18 and similar instruments by stating reservations concerning parts thereof that

seek to establish the principle whereby people, including those who are already Muslim, may renounce their faith as a universally accepted right.

The reasons why the clear, unqualified, and, in different forms, repeatedly stated Qur'anic principle that there shall be no compulsion in matters of faith has traditionally been accurately and unequivocally understood where non-Muslims living in Muslim societies are concerned, while it has been hedged with various kinds of reservations where Muslims are, can be tied to the fact that, consistent with the teachings of the Qur'an and the Prophet, Muslims—regardless of if they are Sunnis, Shi'is, or Ibadis—have throughout history seen and experienced their faith as a sociopolitical bond as well as a system of ethics and spiritual teachings and beliefs. In contrast with the secular perspective of modern Western or Westernized societies and individuals, which regard religion generally as a personal covenant between a person and God therefore, Muslims have traditionally tended to regard apostasy not merely as a matter of conviction or lack thereof, but, especially when accompanied with hostility or the use of violence against the faith or the community, as a threat to the security and political integrity of the *Umma*—and therefore a form of high treason. The point will be further discussed in the following chapters.

The point that needs to be made at this juncture relates to the presumption, often explicitly stated in the writings of some Western and Westernized commentators on human rights issues, that it is only in secular, Western-style states and societies that human rights can possibly exist or be upheld. Thus Jack Donnelly, Andrew Mellen Professor at the University of Denver, categorically states, "Most non-Western cultural and political traditions . . . lacked not only the practice of human rights but also the very concept."¹⁵ He further argues that although such societies often have elaborate systems designed for the protection of human dignity, these societies do so almost entirely in terms of duties instead of rights; therefore, he concludes, "human rights are quite foreign" to them.¹⁶ As some other Western writers such as USC Political Scientist Alison D. Renteln have pointed out, however, "These are rather odd criticisms since human rights are often perceived as deriving moral authority from religious sources and have been denied to various groups in the history of the Western world. In short, Donnelly's objections appear to stem from his peculiarly narrow concept of human rights, one that reflects his cultural biases."¹⁷ Katerina Dalacoura at the London School of Economics has quite rightly suggested that it is more fruitful when thinking about human rights to draw the dividing line not between secular and nonsecular worldviews, but between those that respect

the inherent worth of the individual and his or her inalienable rights, "even if that is encompassed in a metaphysical or religious framework, and a worldview that does not, be it religious or secular."¹⁸

Unlike the primarily rights-based and anthropocentric Western tradition, the Islamic tradition is theocentric and emphasizes duty alongside, or even more than, rights. Although the two approaches are fundamentally different, however, they do have a lot in common as far as specific human rights are concerned. In the modern Western tradition, human rights have evolved in the context of prolonged and oftentimes bitter political struggles between states and citizens and thus are usually seen as primarily legal and political in nature; in the Islamic tradition, in which not only political and juridical but also moral and spiritual concerns play important and pivotal roles, human rights are usually seen as having spiritual significance and religious meaning in addition to their legal and political nature. In that connection it should be remembered that, as Justice Weeramantry of Sri Lanka and the International Court of Justice pointed out, "the Islamic stress on relationship with the divine, and on the concept of duty, could well lead to a more dedicated and purposive commitment to human rights than might be possible in a system which depends on concessions grudgingly granted under compulsive pressures."¹⁹

A COSMIC SYSTEM

A THIRD DISTINCTIVE feature of the human rights tradition in Islam is that it is in fact an integral part of a vast and all-encompassing cosmic system that in addition to human beings, also in certain ways involves nature in both its animate and inanimate forms and beyond the worlds of created beings, Islam reaches out to the Lord—Creator of all that is—God (Allah). Some of the major features of this cosmological network of rights and duties, especially as they relate to the rights and duties of human beings, who remain of primary and pivotal importance in the network, will be discussed in the following chapter.

Before proceeding, however, it will be helpful to look a little more closely at the terms "rights" and "duties" used in this discussion. Primarily signifying "entitlements" and "obligations," respectively, the two terms are closely related here. The complementarity between the two is perhaps best conveyed by the Arabic word *haq*, which, depending on the context in which it is used, can mean either entitlement or obligation or, indeed,

the truth or reality.²⁰ It should in any case be clear that the enjoyment by any one party of his or her rights would depend in any society on whether the other members of the society have done their duties—and vice versa. The criss-crossing network of rights and duties thus links all members of the society as a whole, constituting a vast system in which legal and political elements complement and reinforce moral and ethical, as well as aesthetic, ones—the entire structure being rooted in and sustained by religious faith.

However, this system of rights and duties applies, in the normally understood sense of the terms, to human societies. Nature, lacking volition and being subject to laws in accordance with which it involuntarily functions, cannot similarly be described in terms that assume self-consciousness, choice, and volition. As God's vicegerents on earth, humans, according to the Qur'an, have certain obligations toward nature, both animate and inanimate that humans cannot expect to be reciprocated in the same way as duties are, or should be, in society.

Since he is the creator, sustainer and master of humans, nature, and all that is in existence, God, it is needless to say, cannot be properly said to have duties or obligations toward any of his creatures. Thus, when he says in the Qur'an, "*wa kana haqqan 'alayna nasru'lmu'minin*" (which could literally be rendered as "thus We are in duty bound to grant succor [or victory] to the believers," and has in fact been translated by some, "it was incumbent upon Us . . ." etc.),²¹ Muhammad Asad, with a finer sense of language and a better understanding of the meaning of the passage and the context, more accurately and correctly interprets it as "We had willed it upon Ourselves to succour the believers."²²

The main point to note and bear in mind in this connection is that in the Islamic tradition, rights and duties are closely interconnected and comprehensive of the religious, ethical, and aesthetic, as well as juridical and political, aspects or dimensions of the human experience. This complementarity and interconnectedness of rights and duties is well reflected in the Arabic word normally used for right, *haq*, which significantly, can and, depending on context, does often mean—clearly and without any ambiguity or confusion—duty, truth, or even, when rendered with a capital T, the Truth: God, "the Ultimate Truth," or Ultimate Reality.²³

But why, it may fairly be asked, should this be so? Why, when our focal point of concern is humanity and human rights, should the Islamic system of laws and values emphasize duties at least as much as rights and, in addition, also stipulate such an extensive and far-flung network of spiritual,

ethical, and juridical entitlements and obligations as to include nature in both its animate and inanimate aspects and even God beyond? The answer briefly stated is twofold: First, as has already been indicated, it is held in the Islamic perspective that any system of rights can be viable only where and to the extent that the corresponding system of duties and obligations is effectively observed. Second, the ultimate objective of Islam as a system of beliefs, values, laws, and practices is to encourage and facilitate the growth and development around the world of individuals and societies that are not only free from oppression and exploitation in their various forms, but are also, and even more importantly, good, virtuous, and therefore in harmony with other human beings everywhere, with nature and the environment, and with the Lord, the creator of all that is in existence. It is only in the context of such a comprehensive and all-encompassing perspective that the rights of all beings—human, divine, and otherwise—can best be perceived and also effectively upheld and protected.

BASIC TEACHINGS AND PRINCIPLES

We have not created heaven and earth and all that is in between without meaning and purpose. Qur'an 38:27

There shall be no compulsion in matters of faith. Qur'an 2:256

THE UNIVERSAL DECLARATION of Human Rights and the two International Covenants repeatedly refer to "the inherent dignity" of humankind as the source of the equal and inalienable human rights of all members of the human family and the foundation of freedom, justice, and peace in the world. The Qur'an likewise affirms the dignity of humans, stating, categorically and without any reservations or qualifications: "We have, indeed, conferred dignity on the children of Adam [entire] . . . and favored them far above most of Our creation."¹ The Qur'an repeatedly reaffirms human dignity and elaborates on the theme in different ways and contexts.

Given the crucial importance of the subject as the anchor and linchpin of the International Bill, indeed of all human rights schemes and instruments, it might have, not unreasonably, been expected that the roots and origins of human dignity, whether in human nature or elsewhere, would have been identified in the Universal Declaration and its complementary covenants. Owing, however, to the fact that in the predominantly secular

philosophies of the modern West on which the International Bill is primarily based, "every view of human nature is controversial . . . [and] none of the [related] questions has been settled definitively."² human dignity has continued to be cited in the Universal Declaration and other international documents without any reference to its origins or basis, whether in human nature or elsewhere.

By contrast, the Qur'an directly and unequivocally teaches that it is by God's mercy and grace that the vitally important attribute of human dignity, universally seen and accepted as the bedrock or cornerstone of human rights, has been conferred on humanity. God, nature, and humanity, like the rights that are due to each of them and the obligations that are inseparable from these rights, are closely related in the worldview of Islam.³ Thus, any serious quest for the proper understanding of the meaning and role of human dignity (and hence of human rights) in the Islamic perspective calls for a closer, if brief, look: first, at the worldview of Islam and man's place therein, especially in relation to God on the one hand, and to nature on the other, and second, at the structure of rights and obligations of humanity as perceived in Islam.

THE WORLDVIEW OF ISLAM: A BRIEF OUTLINE

A BASIC POINT that needs to be made at the outset of any discussion of this subject is that the worldview of Islam is not confined to the sense perception of the world—the meaning that Immanuel Kant gave to *Weltanschauung* when he first coined the term in 1790.⁴ Rather, as Professor al-Attas of the International Institute of Islamic Thought and Civilization (ISTAC) of Malaysia put it, it is the "vision of reality and truth," encompassing both those aspects of existence that can be perceived through the senses and, even more importantly, those that appear "before our mind's eye revealing what existence is all about."⁵ In Qur'anic terminology this is *al-ghayb*, that is, those aspects of existence that are ordinarily beyond the reach of normal human perception. Belief in *ghayb* so defined, the Qur'an repeatedly states, is among the principal attributes of *al-muttaqin*, or the God-conscious.⁶ In other words, Islam's worldview does not concede the often stipulated dichotomy of the material and the spiritual, the profane, which concerns this world (*al-dunya*) and that of the world to come (*al-akhirah*). Instead, Islam's worldview encompasses both aspects of reality or existence seen as a continuum in which the *dunya* is crucially regarded as a preparation for the

akhirah—but "without thereby implying any attitude of neglect or being unkindful of the *dunya* aspect."⁷ Furthermore, Islam is not a form of culture, and its vision of reality and truth and the system of values derived from it are not deduced from mere cultural and philosophical elements aided by science, but one whose original source is revelation, confirmed by intellectual analysis and all other sources of knowledge available to man, including both intuition and scientific inquiry.⁸

For the present purposes, some of the most important aspects of existence thus understood are those that relate to human nature on the one hand, and humankind's relation to God and the universe on the other. A few aspects of these weighty matters will now be briefly highlighted with a view to indicating some of the metaphysical and ethical moorings of human dignity (and hence of human rights) in the fundamental teachings and worldview of Islam.

Allah, the proper name for God, is mentioned well over 2,500 times in the Qur'an.⁹ One of the shortest and most frequently recited chapters of the Holy Book refers to him as "the One God, God the Eternal, the Uncaused Cause of All Being. He begets not, and neither is He begotten; and there is nothing that could be compared with Him."¹⁰ This, as Muhammad Asad rightly comments, precludes any possibility of describing or defining God and since the quality of his being is beyond the range of human comprehension, also explains why any attempt at depicting God by means of figurative representation or even abstract symbols is regarded by Muslims as a blasphemous denial of the truth, or *kufur*.¹¹

If God's essence and such qualities of his as being "the First and the Last and the Outward as well as the Inward"¹² cannot immediately be brought within the realm of human comprehension, his attributes, including his being the compassionate and omnipotent creator and sustainer of all that is in existence, should not be so difficult to comprehend. For "have they themselves been created without anything" that they might have caused their creation, such as by "spontaneous generation," for example, the Qur'an asks, or "were they, perchance, their own creators?"¹³

As for God, the Qur'an says that "His is all that is in the heavens and on earth, and things devoutly obey His will. The Originator is He of the heavens and the earth: and when He wills a thing to be, He but says unto it, 'Be'—and it is."¹⁴ Thus, "the heavens and the earth were [once] one undifferentiated mass [*ratq*] which He then parted asunder—and We made out of water every living thing,"¹⁵ and after creating the earth "be-

stowed [so many] blessings on it, and equitably apportioned its means of subsistence to all who would seek it."¹⁶ And again: "It is We who have built the universe with [Our creative] power, and verily it is We who are steadily expanding it. And the earth have We spread out wide—and how [carefully and lovingly]¹⁷ have We furnished it."¹⁸

Nature, or the universe, the Qur'an repeatedly points out, is an awesomely vast and expanding system in which, however, "God has ordered all things to perfection."¹⁹ Furthermore, "no fault will thou see in [His] creation . . . turn thy vision [upon it] once more: canst thou see any flaw? . . . turn thy vision [upon it] again and yet again: [and every time] thy vision will fall back upon thee, dazzled and truly defeated."²⁰ Nature, then, the Qur'an states, is a well-knit structure that works regularly and harmoniously in accordance with laws that have been ingrained in it by God. It is therefore "autonomous, but . . . not autocratic, for, in itself, it has no warrant for its own existence and it cannot explain itself."²¹

The question then arises as to how nature, with all its awesome expanse, its dazzling variety, its complex structures, and its regular patterns of behavior, may be explained. Why does it exist? Does it have any meaning or purpose? Or is the universe simply a vast and intricate machine that inexplicably emerged from nothing and is actually devoid of any sense, meaning, or purpose?

Some scholars have argued that such questions are themselves meaningless, and that nature should simply be taken as given facts and dealt with accordingly. But such people, as the late Professor Fazlur Rahman of the University of Chicago put it, are like children for whom toys are "given" and therefore somehow "necessary."²² Instead of seeing what nature points to beyond itself, they get bogged down in the details of its mechanisms and the laws that it operates in accordance with.

On the contrary, the Qur'an has clearly and categorically ruled out the idea that the universe has been created for fun or as a frivolity without serious purpose: "We have not created heaven and earth and all that is in between without meaning and purpose, as is the surmise of those who are bent on denying the truth"²³; and "Did you think that We created you in mere idle play, and that you would not have to return to Us?"²⁴

According to the Qur'an, among the most important purposes for which nature has been created, apart from the enjoyment by man of its enchanting beauty and rich bounties, is the stimulation of a person's intelligence and the awakening of his or her spirit to discover the metaphysical and

moral significance of nature and thus, to "find" God. The heavens and the earth, the life cycles of humankind and the innumerable other species that inhabit the earth, the changing seasons, the winds, the clouds, the rain, the stars, and the galaxies beyond are all "signs,"²⁵ which point to God. Men are therefore repeatedly urged to look, to ponder, to think, and thus to connect with God: "Verily, in the creation of the heavens and the earth, and in the succession of night and day, there are indeed signs [or, messages] for all who are endowed with insight [and] who remember God when they stand, and when they sit, and when they lie down to sleep and [thus] reflect on the creation of the heavens and the earth: 'O our Sustainer! Thou has not created [aught of] this without meaning and purpose. . . . O our Sustainer! Behold, we heard a voice call [us] unto faith, 'Believe in your Sustainer!'—and so we came to believe. O our Sustainer! Forgive us, then, our sins, and efface our bad deeds; and [when the time comes] grant us the death of the truly virtuous."²⁶

It is noteworthy that the Qur'an does not so much attempt to "prove" God's existence by means of theological or philosophical arguments as it endeavors to awaken man to a realization (or remembrance, *dhikr*) of what the Qur'an describes as the *fitra*, the primordial or inborn human nature which makes every sane human being testify "Yes!, we do bear witness thereto,"²⁷ when asked by God, "Am I not your Lord?" It is also noteworthy that the *ayat* or verses of the Qur'an and the *ayat* or signs of nature complement one another in the divinely inspired process of trying to bring about the desired state of remembrance by humans of their primordial state of belief and God consciousness. Thus, both the Book of Revelation and the Book of Nature speak the same language and point to the one and same master truth: the Lord, creator and sustainer of the heavens, the earth, and all that is in between.

God is then seen and accepted, it is important to note, not only as the creator and sustainer of humans and all that is in the heavens and the earth, but also as the one and only eternal and infinite, transcendent and immanent maker and sustainer of humanity and all that exists. The first Islamic testimony (*Shahadah*: *La ilaha illa 'Llah*; i.e., there is no divinity but God, Allah) is a solemn affirmation of the oneness (*tauhid*) of God to the exclusion of all forms of *shirk*, or associating any partner or partners with God, which constitutes "the greatest sin that man can commit."²⁸ For God says of himself in the Qur'an: "Verily, I—I alone—am God; there is no deity save Me. Hence, worship Me alone, and be constant in prayer, for My Remembrance."²⁹ And again: "Never did God take unto Himself

any son (or offspring), nor has there ever been any deity with Him: [for had there been any,] lo! Each deity would surely have stood apart [from the others] in whatever he had created, and some would surely have [tried to] overcome one another."³⁰

THE QUR'AN AND HUMANITY

HUMANS, ACCORDING to the Qur'an, are creatures of lowly origins, but they have been blessed with many favors. God began the biological creation of humans out of dust and clay; then he caused them to be begotten out of a humble drop of sperm, which was eventually transformed by God's love and grace into a new creation, one that was, physically and otherwise, molded "in the best conformation."³¹ At a crucially important stage in the divine shaping of humans, God "breathed into him of His spirit,"³² thus making man a creature truly worthy of being his vicegerent on earth.

However, when God intimated his intention to confer that honor on humans to the angels, they were deeply disturbed and said: "Wilt Thou place on (earth) such as will spread corruption therein and shed blood whereas it is we who extol Thy limitless glory, and praise Thee and hallow Thy name?" God, significantly, did not deny the serious charges that were thus leveled against humans but answered, "Verily, I know that which you do not know."

Having imparted unto Adam "the names of all things"—knowledge and the power of conceptual thinking—God then asked the angels to declare the names of the said things, but the angels could not do so. Adam did, however, thereby demonstrating his divinely granted superiority in knowledge over the angels. As if to extract a formal acknowledgment of the fact from the angels, God then told the angels, "Prostrate yourselves before Adam," and they did accordingly. But *Iblis*, arrogantly and ostentatiously asserting his superiority over Adam, refused to do as told, thereby becoming the first *kāfir*, one who would knowingly and deliberately cover up, or deny the truth.³³

Having created Adam, breathed his divine spirit into him, granted him the faculty of knowledge and conceptual thinking, with which even the angels had not been blessed, and having in addition made the angels prostrate themselves before Adam in recognition of his divinely instituted

superior abilities, God had already conferred honor and dignity aplenty on Adam (and on his future progeny). But there was yet more to come. Thus, when Adam and Eve (whom God had "created from the same soul [or living entity] as Adam so that she may be his mate"³⁴) foolishly allowed themselves to be tempted by *Iblis* into disobeying their Lord—Creator, God not only forgave them their sins and gave them words of guidance for the future; he also made Adam and his progeny thereafter his vicegerents on earth.³⁵

As such, God has put all that is in the heavens and the earth at the disposal of humans—and this not only so that humans may enjoy the beauty as well as the utility thereof, but also in order to further develop his intellectual and spiritual capabilities: "... He has made subservient to you [as a gift from Himself], all that is in the heavens and on earth: in this, behold, there are messages indeed for people who think!"³⁶ "Are you not aware that God has made subservient to you all that is in the heavens and all that is on earth and has lavished upon you His blessings, both outward and inward?"³⁷ And again: "It is He who sends down water from the skies; you drink thereof, and thereof [drink] the plants upon which you pasture your beasts; [and] by virtue thereof He causes crops to grow for you, and olive trees, and date-palms, and grapes, and all [other] kinds of fruit: in this, behold, there is a message indeed for people who think! And He has made the night and the day and the sun and the moon subservient [to His laws, so that they be of use] to you; and all the stars are subservient to His commands: in this, behold, there are messages indeed for people who use their reason.... And all the [beauty of] many hues which he has created for you on earth: in this, behold, there is a message for people who [are willing to] take it to heart! And He it is who has made the sea subservient [to His laws], so that you might eat fresh meat from it, and take from it gems which you may wear. And on that [very sea] one sees ships ploughing through the waves, so that you might [be able to] go forth in quest of some of His bounty, and thus have cause to be grateful [to Him]. And he has placed firm mountains on earth, lest it sway with you, and rivers and paths, so that you might find your way, as well as [various other] means of orientation: for [it is] by the stars that humans find their way. IS THEN, He who creates comparable to any [being] that cannot create? Will you not, then, bethink yourselves? For, should you try to count God's blessings, you could never compute them!"³⁸

One of the greatest blessings that God has graciously conferred on humanity beyond all the aforesaid, and one that is certainly more germane to the dignity that he has "conferred . . . on the children of Adam [entire],"³⁹ is that of moral autonomy or freedom of choice and conscience. Thus, the evidently unparalleled Qur'anic ruling that "there shall be no compulsion in matters of faith"⁴⁰ absolutely overrules coercion in religious matters. Prophet Muhammad was accordingly instructed in the Qur'an to "say: The truth [has now come] from your Sustainer: let, then, him who wills, believe in it, and let him who wills, reject it."⁴¹

The freedom of choice that has thus been given to humans sets them apart from all nature. For while the heavens and the earth and all that is in between behave in accordance with set laws from which they cannot escape or deviate, humans have been given the ability to freely choose between belief and disbelief, good and evil, right and wrong. In short, humans may choose to follow *Iblis* along the path of *kufr*—disbelief and the deliberate rejection of the truth—or to try, with all the powers that have been conferred on them, to walk *al-sirat al-mustaqim*, "the straight way—the way of the blessed, not of those who have been condemned [by God], or those who go astray."⁴²

Having been given the choice, humanity, the Qur'an asserts, has in principle accepted the *amanah*, the trust or responsibility, to struggle in order to lead a morally good life and to establish a just and moral social order on earth. While admirable in itself and, in principle, worthy of one who would be a vicegerent of God on earth, however, the challenge that has thus been somewhat hastily and recklessly accepted by humans is so great and formidable that the earth, the mountains, and even the heavens above demurred when asked whether they would accept it. Humans—always somewhat excitable in dramatic situations and prone to overestimate their capabilities—rashly took up the challenge not realizing that it would test their will and integrity to a breaking point. "Verily," the Qur'an says, "We did offer the trust [of reason, choice, and volition] to the heavens, and the earth, and the mountains: but they [all] refused to bear it because they were afraid of it. Yet man took it up for, verily, he has always been prone to be injudicious, most foolish."⁴³ While the heavens and the earth and the mountains, along with the rest of nature, are thus involuntarily Muslim (meaning obedient to God and acting in accordance with his will), the challenge—and the potentially great achievement—of humans is to voluntarily become Muslim, thereby fulfilling their potential as moral agents, by conscious and free choice.

But this lofty objective cannot be realized without a real and arduous struggle (jihad in classic Islamic terminology) to curb one's evil impulses and inclinations on the one hand, while scaling the ladder of moral and spiritual refinement to the highest possible point of human perfection on the other.⁴⁴

For although humans, according to Islam, are free from original sin, they nevertheless are in many ways weak and basically fragile. Among other things, they are inherently unstable and are likely to oscillate between unwarranted optimism and hopefulness and despondency and despair.⁴⁵ They are also forgetful and can easily be led astray. Above all, they are liable to be arrogant and, like Pharaoh, fall victim to the temptation of setting themselves up as false gods. Alternatively, they are capable of deceiving themselves into thinking that they are self-sufficient and that they know what is best for themselves, and thus they join the ranks of "the greatest losers [in consequence of their actions] while they think that they have made wonderful achievements."⁴⁶

It is because of his constant sympathy and concern for humans as well as his profound knowledge both of man's weaknesses and of his yearning for goodness and the truth ("We have created man, and We are closer to him than his jugular vein"⁴⁷) that the merciful Lord has decided not to abandon humans or to leave them to their own devices, but to come to their aid and help them in various ways to achieve the moral and just life whereby they may attain both self-fulfillment here on earth and salvation in the eternal life to come in the hereafter.

In addition to all the bounties that God has already gratuitously conferred on humankind, including the very act of creation itself, the endowment of humans with senses, intelligence, and the capacity for analytical and abstract thought, God has thrown out not one but two important lifelines to humans as they struggle for moral survival and spiritual salvation. One of these lifelines was a series of messengers, or "reminders," beginning with Adam, through Noah, Abraham, Moses, and Jesus, and culminating in Muhammad, who all would in different but complementary ways,⁴⁸ endeavor to call humans to their senses, to pull them back from the abyss of *dalal*, or going astray. These messengers were sent to persuade humans, instead, to walk the straight path, *al-sirat al-mustaqim*, which would take them through their struggle for self-purification and the establishment of a moral and just order on earth to the attainment of both worldly success and eternal bliss thereafter.

The second major lifeline that has also been mercifully and gratuitously extended by the Creator-Sustainer to humanity is the attribute of human dignity, which, like primordial faith, was built by God into humankind's *fitra* from their very inception as living and self-conscious beings. It is important to note that this crucially important attribute of human dignity has been conferred on humankind not because of their brilliance, distinguished services, or even because they happened to be believers and good people, but merely because they are human. In the words of Al-Alusi, one of the major commentators on the Qur'an in Arabic in recent times, human dignity, nobility, and honor have been conferred on humankind entire: "the believers among them and the non-believers, the pious and the sinners alike."⁴⁹ Further, Muhammad Hashim Kamali, of The International Islamic University Malaysia, holds that dignity has thus been granted to mankind "as an expression of God's favor and grace."⁵⁰ According to the *shari'a*, all human beings, including convicted criminals, are therefore entitled to dignified treatment: "For punishment," in the words of a well-known contemporary *faqih* "is to be for retribution and reform, not indignity and humiliation."⁵¹

It is on the basis of the human dignity that has been graciously and gratuitously conferred by God on humanity and, at the same time, in order to guard and protect the divine gift in question itself that the highly sophisticated and elaborate structure of human rights (and obligations) in Islam has been established. The ultimate objective in Islam is to make it possible for humans to attain self-fulfillment during their lifetimes on earth and salvation thereafter in the eternal life to come. Some of the principal aspects of the said structure of human rights will now be highlighted.

CHILDREN'S RIGHTS: FROM PRECONCEPTION TO ADULTHOOD

HUMAN RIGHTS in the Islamic tradition is an elaborate multidimensional (legal, ethical, and religious) structure or network of distinct but interlocking and complementary systems or sets of rights and duties that comprehend human life from stages prior to conception through birth and infancy, childhood, adulthood, and maturity, to death and beyond. As may be expected, then, one of the first sets of human rights that have been assiduously cultivated and extensively discussed from the earliest

phases of the Islamic tradition until the present day concerns children—not only from birth onward, but indeed from stages prior to conception until adulthood.

Among the standard features or characteristics (primarily based on Prophetic *Sunna* and directives) of the family into which the child is to be born and bred are the requisite good character of the couple who are to constitute the family, the mutual attraction or compatibility between them, and the highly recommended proviso that the couple should not be close relatives.⁵² This last proviso is obviously recommended with a view to enhancing the chances that the offspring be physically and mentally healthy and free from the negative consequences of inbreeding. Good character and mutual attraction or compatibility between the couple, apart from their intrinsic value and personal significance for the individuals concerned, are seen and highly recommended in the Islamic tradition as crucially important factors in the success of the marriage and the ability of the family to provide the stable and caring environment necessary for the psychologically and socially healthy growth and development of the child. In other words, the child, even before he or she is conceived, is here morally and religiously, if not legally and juridically, entitled to certain rights that constitute duties and obligations for the intending parents, which they would be religiously and ethically required to carefully observe and, as far as possible, conscientiously endeavor to fulfill.

Beyond conception, pregnancy, and birth, the child is also entitled to certain basic rights, which are correspondingly seen as duties or obligations of parents. Similarly rooted in Prophetic *Sunna* and directives, these rights, as explained by the celebrated *Hujjat al-Islam* ("Proof of Islam," an honorific title in Islam) Abu Hamid al-Ghazali (1058–1111 C.E.) in his classic work, *Ihya' Uloom al-Din* (The Revivification of Religious Sciences), include the joyful celebration of the birth, choosing a good and suitable name for the child, and providing him or her with appropriate feeding, clothing, upbringing, and education.⁵³

Special provisions are stipulated, sometimes in considerable detail, for orphans, children of no known parentage, and those of broken families. Thus, in this last connection, the Qur'an ordains that:

[Divorced] mothers may nurse their children for two whole years, if they wish to complete the period of nursing; and it is incumbent upon him who has begotten the child to provide in a fair manner for their sustenance and clothing. No human being shall be burdened with more than he is well

able to bear: neither shall a mother be made to suffer because of her child, nor, because of his child, he who has begotten it. And the duty rests upon the [father's] heir.⁵⁴

With regard to orphans, the Qur'an repeatedly admonishes that they be well treated and that wealth or property due to them be taken good care of until they reach adulthood and are able to properly manage their own affairs. The Qur'an asserts:

[D]o not entrust to those who are weak of judgment the possessions which God has placed in your charge for [their] support; but let them have their sustenance therefrom, and clothe them, and speak unto them in a kindly way. And test the orphans [in your charge] until they reach a marriageable age; then, if you find them to be mature of mind, hand over to them their possessions, and do not consume them by wasteful spending, and in haste ere they grow up. And let him who is rich abstain entirely [from his ward's property]; and let him who is poor partake thereof in a fair manner. And when you hand over to them their possessions, let there be witnesses on their behalf—although none can take account as God does.⁵⁵

A basic right of all children, orphans, and otherwise, which the Qur'an strongly upholds and calls upon all people to likewise observe, can best be considered against the background of the fact that until the rise of Islam, the birth of a girl, far from being an occasion to celebrate as the Prophet directed, was not only regarded as a depressing and lamentable misfortune; it also often ended in infanticide, a horrendous crime that was widely practiced by the pagan Arabs, either because parents feared that they may not be able to support the newly born or, in the case of infant girls, because it was feared that the child may one day bring shame or disgrace on the family. The Qur'an strongly disapproved of the savagery, sensitively depicted the negative and heartless reception of baby girls, and vigorously condemned the pagan practice of infanticide in a number of vibrant verses. It carefully registered the observation that "whenever any of them is given the glad tidings of [the birth of] a girl, his face darkens, and he is filled with suppressed anger, avoiding all people because of the [alleged] evil of the glad tidings which he has received, [and debating within himself:] Shall he keep his [child] despite the contempt [that he feels for it], or shall he bury it in the dust? Oh, evil indeed is whatever they decide!"⁵⁶

Referring to the Day of Judgment, "when the sun is shrouded in darkness . . . and when the seas boil over, and when all human beings are coupled" with their deeds, the Qur'an movingly portrays the infant child who had been buried alive rising "to ask for what crime she had been slain."⁵⁷ The Qur'an then firmly ordains: "do not kill your children for fear of poverty [for] it is We who shall provide sustenance for them as well as for you. Verily, killing them is a great [and heinous] sin."⁵⁸

A life-affirming religion and way of living, Islam in fact regards human life, whether of an infant or an adult, a Muslim or non-Muslim, a male or female, as a sacred and divine gift from the Lord-Creator. As such, therefore, it is not to be taken away by anyone or any authority except in some certain specific circumstances. The Qur'an succinctly and directly states the matter as follows: "do not take away any human life—[the life] which God has declared to be sacred, otherwise than in the pursuit of justice."⁵⁹ Also, "If anyone killed a person, unless it is for murder or spreading mischief on earth, it would be as if he killed all of mankind. And if anyone saved a life it would be as if he saved the lives of all mankind."⁶⁰

Sanctity of life, it is needless to say, is a basic principle of wide application. As far as childhood in general and the earliest prenatal stages of human life in particular are concerned, our discussion has to focus first on the important but highly controversial subject of abortion. This (together with such related issues as 'azl, or coitus interruptus) has been extensively discussed and debated by Muslim 'ulama for centuries before modern times. Given the nature of the subject on the one hand, and the highly pluralistic nature of the scholarly tradition in Muslim societies on the other, it is not surprising that many and varied opinions have been put forward as to the legitimacy or otherwise of abortion. Bearing in mind the *hadith* in accordance with which the Prophet is reported to have said that "ensoulment," or "the breathing of the spirit" into the fetus takes place four months after gestation, most classical jurists maintained that abortion may in certain circumstances be permissible during the first 120 days (or four months) after gestation. Beyond that time limit, however, it was held by general consensus that abortion is not permissible under the *shari'a* except when it is necessary to save the life of a pregnant mother.⁶¹

Hujjat al-Islam Abu Hamid al-Ghazali, however, took a radically different and interesting position. Without getting involved in a debate about the authenticity of the *hadith* in question or about the soundness

of the opinion that most jurists had, by general consensus, based on it, al-Ghazali pointed out, calmly and in a matter-of-fact way, that the confluence of the male and female seminal fluids in the womb establish the condition necessary for the reception of life, thereby constituting the first stage of existence (*awwal maratib al-wujud*) of the human being. Corrupting or destroying that first stage of existence or the condition necessary for the reception of life therein, al-Ghazali stated, is surely an offense (*ifsadu dhalika jinayah*). If the said process is terminated or corrupted at a later stage when a germ-cell (*'alaqa*) or an embryonic lump (*mudgha*) has been formed, the offense would be greater (*afshah*). Should the act of destruction take place at a later stage when ensoulment will have taken place, then the offense would be greater still. The enormity of the offense increases with the further growth and development of the fetus thereafter, the maximal point (*munataha al-tafahush*) being reached when the fetus becomes a distinct living entity.⁶² Clearly born out by the findings of modern medical science, al-Ghazali's basic position on the subject has in recent times become increasingly favored by Muslim jurists, including Shaykh Mahmud Shaltut, the renowned scholar and former rector of al-Azhar.⁶³

While the responsibility for securing the aforementioned rights for children and minors would normally rest in Muslim societies with the parents or guardians of the children in question, the state and society are also expected to provide a safety net for those children and minors who, for one reason or another, may not otherwise receive the care and provisions to which they are entitled. The second caliph, 'Umar Ibn al-Khattab (634–644 C.E.), was the first to provide regular stipends or grants for children (as well as for the poor and the needy, Muslims and non-Muslim alike) from the then recently established *bayt al-mal*, or public treasury.⁶⁴ In due course, state-sponsored social services were typically provided by extensive networks of charities and *awqaf*, or endowments oftentimes under the supervision of the *qadi*, or judge.⁶⁵

Rights in the Islamic tradition, as has already been mentioned, involve duties. Accordingly, children, especially when they are grown up and their parents have aged and become weak, are expected to observe and fulfill a number of duties vis-à-vis their parents. Significantly juxtaposed with the affirmation of the first and foremost article of faith in Islam, the Qur'an states the basic rights of parents (and hence duties of offspring) as follows:

Do not set up any other deity side by side with God, lest thou find thyself disgraced and forsaken: for thy Sustainer has ordained that you shall worship none but Him. And do good unto [thy] parents. Should one of them, or both, attain to old age in thy care, never say "Ugh" to them or scold them, but [always] speak unto them with reverent speech, and spread over them humbly the wings of thy tenderness, and say: "O my Sustainer! Bestow Thy grace upon them, even as they cherished and reared me when I was a child!"⁶⁶

Some interesting variations on the same theme are introduced elsewhere in the Qur'an:

We have enjoined upon man goodness towards his parents: his mother bore him by bearing strain upon strain, and his utter dependence on her lasted two years: [hence, O man] be grateful towards Me and towards thy parents, [and remember that] with Me is all journeys' end. [Revere your parents;] yet should they endeavor to make thee ascribe divinity, side by side with Me, to something which thy mind cannot accept [as divine], obey them not; but [even then] bear them company in this world's life with kindness, and follow the path of those who turn towards Me. In the end, unto Me you all must return; and thereupon I shall make you [truly] understand all that you were doing [in life].⁶⁷

The Prophet, for his part, often elaborated on these themes, clarifying in various ways and contexts that loving care of one's parents, and one's mother in particular, is an absolute condition of attaining God's pleasure and salvation in the hereafter.

ISLAM AND THE FAMILY

THE FAMILY in the Islamic system or way of life (*Dīn*) is important not only because it is the appropriate context in which children are normally born and bred. Its importance also derives from the fact that it is the basic unit of social organization in Islam and the arena in which adult persons join hands as husbands and wives in order to satisfy their own emotional and physical needs as individual human beings (all of which, including sexual partnership, are regarded in the Islamic perspective as

forms of worship) and simultaneously contribute, with others in the community, toward the creation of a good society.

As prescribed in the Qur'an, relations between husband and wife are certainly not those of master and servant as is often crudely suggested in Islamophobic caricatures and writings and as is almost the case in certain tradition-bound but only superficially Muslim societies today.⁶⁸ On the contrary, relations between husbands and wives, as taught in the Qur'an and the *Sunnah*, are clearly and undoubtedly ones of mutual respect and affection between sensible, considerate, and responsible partners.

To start with, the Qur'an firmly and unequivocally lays down the basis of the fundamental equality of men and women by stating in no uncertain terms that they were created of one and the same entity. "O Mankind," it says, "Be conscious of your Sustainer, who has created you of one living entity, and out of it created its mate, and out of the two spread abroad a multitude of men and women. And remain conscious of God, in whose name you demand [your rights] from one another, and those ties of kinship."⁶⁹ Accordingly, the Qur'an repeatedly states, women and men are equally and individually responsible for their actions, whether of omission or commission, and will, when the Day of Judgment comes, be equally held accountable for whatever they may have done or failed to do throughout their conscious lives on earth.⁷⁰

As for marriage, it is described, along with "the creation of the heavens and the earth, and the diversity of your tongues and colors," as one of God's "wonders" or "signs": "And among His wonders is this: He creates for you mates out of your own kind so that you might incline towards them, and He engenders love and tenderness between you: in this, behold, there are messages indeed for people who think!"⁷¹ The blessings that he showers on people through marriage, besides the love and tenderness that God engenders between married couples, include "children and children's children" in addition to innumerable other good things of life.⁷²

Being such a vitally important institution for the individuals—both children and adults—directly concerned, as well as for society and, indeed, humanity at large, marriage in Islam, by contrast with pre-Islamic traditions in Arabia and elsewhere, had to be established on just foundations that respected and were fully consistent with the human dignity that God had vested in women and men alike. Marriage further had to be consistent with the principle of individual responsibility, in accordance with which all human beings, irrespective of sex, origin, or faith, are held accountable for their deeds.

Prophet Mohammad repeatedly warned that the prior consent of a woman whose hand was sought in marriage, regardless of whether she happened to be a virgin, a widow, or a divorcee, was a basic condition without which the proposed marriage could not, under the *shari'ah*, take place or be regarded as valid. Having been married, the woman in question would, as a matter of course in the Islamic tradition from its very inception, be fully entitled to keep her maiden name, her independent legal personality, and her property, including the dowry that would have normally been paid to her in advance.⁷³ Any monies that she may voluntarily contribute to the household, like any work that she may do for her husband and family, would be given in the spirit of mutual cooperation, which the husband would be expected to reciprocate in one way or another if the God-given spring of love and tenderness, which would normally nourish and sustain the marriage, is not to dry up, resulting in the death of the delicate plant of "love and tenderness."

It is in consideration of these and similar provisions that a contemporary Western writer and researcher into Muslim women's affairs has been prompted to say that "Muhammad, the founder of Islam, was among the world's greatest reformers on behalf of women. He abolished such sex-discriminatory practices as female infanticide, slavery and levirate . . . , while introducing concepts guaranteeing women the right to inherit and bequeath property, and the right to exercise full possession and control over their own wealth," adding in conclusion that "Islam, in fact may be the only religion that formally specified women's rights and sought ways to protect them."⁷⁴

Such comments apart, Islam has in fact gone further. For in addition, the Qur'an has ordained that as a general rule, "Men shall [support, sustain, and] take full care of women."⁷⁵ It is worth noting in passing that the original Qur'anic term *qawwamun*, which is the stronger form of *qama*, as in, for example, *qama 'ala-'l-mar'ah*—that is, he maintained the woman—in fact combines the concepts of physical maintenance and protection as well as moral responsibility, as Muhammad Asad, the outstanding contemporary translator and commentator on the Qur'an, has pointed out.⁷⁶

If husbands are thus charged with the responsibility for the moral as well as the physical maintenance and protection of wives, "the righteous [and] truly devout [wives]," as the Qur'anic verse continues, "guard the intimacy which God has [ordained to be] guarded."⁷⁷ Within the family, therefore, husbands and wives have rights, the upholding of which would

ideally and actually depend on both parties doing their respective duties not only in a formally correct fashion, but ethically, conscientiously, and with due remembrance of the divine bond of love and tenderness that binds them to each other. It will be recalled in this connection that while freedom is undoubtedly regarded as a much cherished value or principle in the worldview of Islam, the ultimate ideal in Muslim social thought is generally considered to be the raising or making of the good or virtuous person. Indeed, Prophet Muhammad is reported to have said, in an often quoted *hadith*, that "I have been sent [by God, only] so that I may perfect good manners [and moral conduct]" (*Innama bu'ithu li-utammima makarim al-akhlaq*). In modern Western social and political thought, by contrast, the free citizen in a free society tends to be the focus of attention—ethics and morality, like religion, being primarily regarded as matters of personal taste and private, rather than public, concern.

It is also important to note, moreover, that beyond the basic or "hard-core" issues of physical and moral maintenance and protection and the inculcation and promotion of spiritual and moral values, the family in the Islamic perspective is regarded as a natural human institution in which all parties concerned can relax and be themselves. In this context, the rights and duties of husbands, wives, and children alike include such things as entertainment, humor, laughter, and play. The teachings of the Prophet as well as the example of his personal conduct, especially vis-à-vis his grandchildren, Hasan and Husain, and his much-loved young wife, 'A'isha bint Abi Bakr, clearly and repeatedly showed this important and yet often forgotten aspect of the way of life, or *Dīn*, that Islam is.

While totally committed to the cause of seeking to establish a just and ethically based family system and social order on earth, however, Islam has no illusions about the limitations of human nature. It accordingly provides for contingencies and cases of failure, trying by various means to salvage the rights and peace of mind of children, parents, and all concerned from being shattered in consequence of family breakdowns. The Qur'an therefore urges husbands to: "consort with your wives in a goodly manner. If [perchance] you dislike them, it may well be that you dislike something which God might yet make a source of abundant good."⁷⁸ And "if you have reason to fear that a breach might occur between a [married] couple, appoint an arbiter from among his people and an arbiter from her people; if they both want to set things aright, God may bring about their reconciliation."⁷⁹ Should all efforts fail to heal the breach and bring about

the desired reconciliation, however, Islam wisely and realistically permits that which, in the words of the Prophet, "is the most abhorrent of all permissible acts" (*abghadu'l halāl ila' Llah*), or divorce. Constantly urging humans to behave ethically even in this kind of eventuality, the Qur'an then stipulates that "marriage must either be resumed in fairness or dissolved in a goodly manner."⁸⁰

THE PUBLIC SPHERE

IN PUBLIC LIFE beyond the family home, too, men and women in an Islamic society or state are expected to do their utmost in order to lead consciously ethical lives in which rights and obligations are integrated and equitably balanced and considerate interpersonal relations facilitate mutual understanding and promote social solidarity. The context in which these processes would be set in motion is the divine invitation to mankind everywhere to explore the earth and the heavens and enjoy the beauty and the bounties that God has spread thereunto. For "He has made subservient to you, [as a gift] from Himself, all that is in the heavens and on earth."⁸¹ And "He it is who has made the earth easy to live upon: go about, then, in all its regions and partake of the sustenance which He provides: but [always bear in mind that] unto Him you shall be resurrected."⁸²

For those who may, for one reason or another, be tempted to think that a truly ethical and God-conscious life is one in which the bodily instincts are starved or suppressed and worldly pleasures should be renounced, the Qur'an sharply retorts: "Say: 'Who is there to forbid the beauty which God has brought forth for His creatures, and the good things from among the means of sustenance?' . . . Say: 'Verily, my Sustainer has forbidden only shameful deeds, be they open or secret, and [every kind of] sinning, envy and the ascribing of divinity to aught beside Him . . .'"⁸³ And again:

O you who have attained to faith! Do not deprive yourselves of the good things of life which God has made lawful to you, but do not transgress the bounds of what is right, God does not love those who transgress the bounds of what is right. Thus partake of the lawful, good things which God grants you as sustenance and be conscious of God, in whom you believe.⁸⁴

Accordingly, the Prophet repeatedly and in different ways encouraged his followers and companions to work—and work hard—for an honest living, emphasizing throughout that doing so in order to support one's parents, wife, or children, or simply to meet one's own personal needs and thus liberate oneself from the shackles of poverty and having to undergo the humiliation of seeking or accepting charity, is one of the finest forms of worship and religious devotion.⁸⁵ It is only greed, ostentation, the desire to show off, and the like, he often explained, that are objectionable and impermissible in Islam. The Prophet was for several years employed as a small-scale business manager on the long-distance caravan route to and from Syria, and his employer, a well-off widow and distant cousin, Khadija bint Khuwaylid, eventually became his first and, until after her death twenty-four years later, his only wife. Consistently with this outlook, the Prophet repeatedly reminded his companions that there is no monasticism in Islam (*la rahbaniyata fi'l Islam*), that Muslims should wherever possible be married and enjoy all the good things of life, but always in moderation and good taste and with due remembrance of and gratitude to God, the source and giver of all bounties, as indeed of life itself. Having learned that one of his companions had been diligently fasting every day and praying through the night every night, the Prophet reminded this person that "Your body has a right on you, your eyes have a right on you; your wife has a right on you; and your visitors have a right on you. It should be sufficient for you to fast only three days every month."⁸⁶

Some four centuries later, however, Abu Hamid al-Ghazali encountered people who thought and argued that faith and the world should be considered contradictory and mutually exclusive arenas. But as *Hujjat al Islam* pointed out in what has since come to be widely regarded as a classic elucidation of Islam's position on the question, this was a misconception based on gross misunderstanding of both the faith and the world. While indulgence in worldly pleasures and the heedless pursuit of luxurious lifestyles are undoubtedly destructive for the soul and corrosive to ethical sensibilities, a morally measured and responsible involvement in worldly affairs and, certainly, having enough of the good things of life to meet the basic human needs are in fact preconditions without which, al-Ghazali argued, neither the good life in general nor spiritual refinement and moral fulfillment in particular can be attained.⁸⁷ More specifically, the establishment of *nizam al-din* (i.e., Islamic order) is contingent upon the acquisition of knowledge on the one hand, and on worship in its various modes

and facets on the other. But neither of these can be accomplished in the absence of physical life, good health, and adequate provisions for the satisfaction of such basic needs as all humans have for food, shelter, and clothing in conditions of peace and security. Individuals who have to spend all their time and energy defending themselves against hostile forces and in order to secure the wherewithal for physical survival would surely not be able either to seek knowledge or to engage in worship and the doing of good deeds, the two indispensable prerequisites of attaining salvation and eternal bliss in the hereafter. It should therefore be clear that the establishment of a good worldly system—complete with a properly constituted government that would, at the very least, keep law and order and thus make it possible for people to enjoy their rights and fulfill their obligations in conditions of peace and security—is a necessary precondition for the existence and development of a healthy spiritual and moral (specifically Islamic) order. Or, in al-Ghazali's own succinct phrase, "*nizamu al-dunya . . . sharṭun . . . li nizam al-din*."⁸⁸ In the light of both Qur'anic precepts and prophetic teachings, therefore, hard work for the purpose of securing honest earnings with a view to satisfying the legitimate needs and ambitions of oneself and one's dependents, especially parents, is not merely permissible in Islam; it is a highly commendable form of worship or even of jihad, the assumed reward of which could well be Godly blessings and heavenly bliss.⁸⁹

For that to be secured (God willing), however, certain conditions pertaining to the manner in which the wealth and properties in question will have been earned in the first place, as well as the subsequent management or spending thereof, must be fulfilled. The primary objective of the first set of these conditions is to ensure that the earnings or property in question have been acquired through legitimate means—such as work, inheritance, or donation—and not through such illegitimate means as fraud, robbery, monopolistic practices, or usurious transactions involving, as they usually do, the exploitation of the poor and the disadvantaged. In order to eradicate or, as far as possible, minimize the incidence of such practices, classical Muslim societies evolved the interesting institution of *hisba*. The *muhṭasib*—the person appointed in this institution—would among other things have the responsibility of checking monopolistic and fraudulent practices as well as ensuring quality control over a wide range of goods and services offered for sale in a particular market, city, or wider territory, thereby helping at the grassroots to safeguard the rights and interests of people in their day-to-day lives.⁹⁰ Another point of detail that

may be worth mentioning in this connection is that Muslims were barred from dealing in certain commodities, such as wines, whereas non-Muslims were not. While an overzealous Muslim who destroyed pigs or wines belonging to another Muslim would not have been punished (because the said items are *haram*, or for religious reasons, impermissible for Muslims, who are consequently not allowed to own or deal in them), the offender would certainly be constrained to pay full compensation if the owner was a Christian or a Jew and therefore fully entitled, under Islamic law, to own and deal in pigs and wines.⁹¹

According to a second obligation, those who have been blessed (or tested) with wealth and property are urged and expected to pay out both *sadaqat*—donations or voluntary charity offerings—as they may see fit and the requisite *zakat*, the religiously ordained social welfare tax fixed at 2.5 percent of the total value of wealth owned per annum. The subject in its two modes is repeatedly mentioned in the Qur'an, sometimes briefly and along with other subjects, other times at length and almost exclusively. An example of the first instance runs as follows:

O you who have attained to faith . . . vie with one another to attain your Sustainer's forgiveness and to a paradise as vast as the heavens and the earth, which has been readied for the God-conscious who spend [in His way] in time of plenty and in time of hardship, and hold in check their anger, and pardon their fellow-men because God loves the doers of good; and who, when they have committed a shameful deed or have [otherwise] sinned against themselves, remember God and pray that their sins be forgiven—for who but God could forgive sins?—and do not knowingly persist in doing whatever [wrong] they may have done.⁹²

But a substantially different style is used elsewhere:

The parable of those who spend their possessions for the sake of God is that of a grain out of which grow seven ears, in every ear a hundred grains: for God grants manifold increase unto whom He wills. . . . They who spend their possessions for the sake of God and do not thereafter mar their spending by stressing their own benevolence and hurting [the feelings of the needy] shall have their reward with their Sustainer, and no fear need they have, and neither shall they grieve. A kind word and the veiling of another's want is better than a charitable deed followed by hurt. . . . Spend on others out of the good things which you may have acquired, and out of that

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While *sadaqat* are voluntary donations given by donors at their discretion, *zakat* is a compulsory social welfare tax, the amount of which is fixed as a certain percentage of property and which is given to eight specific categories of people or causes. As described in the Qur'an, *zakat* "is meant [only] for the poor and the needy, and those whose hearts are to be won over [to Islam], and for the freeing of those who are in bondage, and [for] those who are over-burdened with debts, and [for every struggle] in God's cause and [for] the way-farer: this is an ordinance from God, and God is all-Knowing, wise."⁹⁴

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may be collected, if necessary by force, from those who are able to make the necessary payments.

A third religiously prescribed obligation on property owners and those generally well-off in Muslim societies is that they should avoid spending their wealth on frivolities, in an ostentatious manner, or on socially harmful activities. The Qur'an directs: "do not squander [thy substance] senselessly. Behold, the squanderers are, indeed, of the ilk of the satans—inasmuch as Satan has indeed proved most ungrateful to his Sustainer."⁹⁷ On the contrary, the Qur'an praises those "who whenever they spend are neither wasteful nor niggardly but [remember that] there is always a just mean between those [two extremes]."⁹⁸

As might have been expected, the extent to which these and similar directions should be enforced as laws or, at least in some cases, should be regarded as ethical teachings for general guidance is a question that has given rise to innumerable debates among classical jurists. Some of these are particularly interesting from a modern human rights perspective. Concerning the appropriate treatment of spendthrifts and squanderers of wealth for example, Abu Hanifa's position was that a free, sane adult spendthrift should not be interdicted (*la yuhjar 'ala al-hurr al-baligh al-'aql al-safih*).⁹⁹ Malik, al-Shafi'i, and some others, on the other hand, allowed interdiction by a judge when the irresponsible behavior (*safih*) of an adult person had been established in court.¹⁰⁰

Beyond specific rules and directives, and however they may be interpreted, Muslims, whenever and in whatever capacity they may happen to be involved in business transactions, are expected to be gracious and accommodating, though by no means naïve or simple-minded.¹⁰¹

However, gracious and considerate conduct is not confined, in the Muslim tradition, to the sphere of business and the marketplace. Rooted in deep veneration for the dignity that the Lord-Creator has bestowed on all humans, such attributes as respect, consideration, forgiveness, and willing cooperation with others for the promotion of good and the combating, if not the complete elimination, of evil are among the basic duties that individuals owe to each other and the rights to which society as a whole is entitled.

One of the most important rights that is specifically and categorically established in the Qur'an is the right to privacy. "O you who have attained to faith!" it ordains, "Do not enter houses other than your own unless you have obtained permission and greeted their inmates. This is

[enjoined upon you] for your own good, so that you might bear [your mutual rights] in mind. Hence, [even] if you find no one within [the house] do not enter it until you are given leave; and if you are told, 'Turn back' then turn back. This will be most conducive to your purity; and God has full knowledge of all that you do."¹⁰²

Closely related to the protection of privacy in the above indicated manner is the no less categorical prevention of spying, suspicion, and speaking ill of one another. "Avoid most guesswork" about one another, the Qur'an prescribes, "for, behold, some of [such] guesswork is [in itself] a sin; and do not spy upon one another, and neither allow yourselves to speak ill of one another behind your backs. Would any of you like to eat the flesh of his dead brother? Nay, you would loathe it!"¹⁰³

A third preventive rule that the Qur'an lays down with a view to protecting the dignity of men and women in society relates to derision, defamation, and the tendency of some humans to assume that they are inherently superior to others:

No men shall deride [other] men: it may well be that those [whom they deride] are better than themselves; and no women [shall deride other] women: it may well be that those [whom they deride] are better than themselves. And neither shall you defame one another, nor insult one another by [obprobrious] epithets: evil is all imputation of iniquity after [one has attained to] faith. . . . O men! Behold, We have created you all out of male and a female, and have made you into nations and tribes, so that you might come to know one another. Verily, the noblest of you in the sight of God is the one who is most deeply conscious of Him.¹⁰⁴

But the maintenance and development of healthy societal relations, in the Islamic perspective, does not depend only on the abstention of groups and individuals from engaging in unsavory and destructive forms of conduct. The Qur'an therefore prescribes the active engagement of men and women in the promotion through positive action of a broad range of socially desirable forms of behavior: "Let there arise out of you a community [of people] who invite unto all that is good, and enjoin the doing of what is wrong: and it is they who shall attain to a happy success."¹⁰⁵ Elaborating on this comprehensive injunction, the Prophet, in one of his most frequently cited directives, urged that "whoever happens to see something wrong should put it right forthwith [literally, with his hand, *biyadihi*]; if he is not able to do that, he should speak up against the wrong in question

[literally, with his tongue, *fa bi lisanih*]. If he is not able to do [even] that, then he should [denounce] the wrong in question in his heart, but this is the weakest form of faith."¹⁰⁶ At no point in time can a socially conscious or God-conscious person be indifferent to the perpetual conflict on earth between good and evil, right and wrong, truth and falsehood. Not surprisingly therefore, commanding right and forbidding wrong has emerged as one of the most vibrant and, at the same time, one of the most hotly debated themes throughout Islamic history.¹⁰⁷

Resolving conflicts and promoting amicable relations between disaffected groups is yet another major theme in connection with which people are called upon to be proactive: "if two groups of believers fall to fighting, make peace between them. . . . [B]elievers are but brethren. Hence [whenever they happen to be at odds] make peace between them."¹⁰⁸ More generally, Muslims are urged to "help one another in furthering virtue and righteousness; but do not help one another in furthering evil and enmity."¹⁰⁹

At the person-to-person level, a vast network of rights and obligations of a primarily ethical and social nature help to forge strong bonds of fraternal relations between people. Among these rights and obligations are many that concern the promotion and maintenance of good neighborly relations. Others are about hospitality, the giving and taking of advice, visiting sick friends and acquaintances, and in the event of death, following the coffin of the deceased to its final resting place and praying for the deceased's soul.¹¹⁰

Politics, government, and administration, like economic, financial, and sociocultural forms of conduct, have always been regarded in the Islamic tradition as matters of great religious and ethical, rather than of purely practical or managerial, importance. The establishment of justice; the harmonization of the interests of individuals, groups, and the state; the defense of the *Umma* and the realm; and the determination of the rights and obligations of the rulers and the ruled (Muslims and non-Muslim alike), as well as of foreigners and such special groups as refugees and prisoners of war, have therefore been major issues of concern in Muslim societies from the time of Prophet Muhammad to this day and age. Jurists, philosophers, statesmen, and writers (in many languages) of both popular and classical literature have contributed their respective views on the many and different aspects of these subjects.¹¹¹ The principles on

which the numerous books and treatises on government, politics, and administration have thus been written in various parts of the Muslim world through the ages are all enshrined in the Qur'an. As may be expected, these have invariably been illuminated by prophetic practice, commentaries, and directives.

Of central importance throughout is the principle of *shura*—that matters of public (as well as private) import should be settled through consultation between the parties concerned. For among the principal attributes that Muslims are called upon to cultivate and adhere to and for which the Qur'an praises the God-conscious and the truly devout is that "Their communal concern [*amruihum*] is [transacted in] consultation among themselves."¹¹²

It is remarkable that although he was by definition the recipient of divine guidance, the Prophet was nevertheless directed in the Qur'an to consult his Companions in all matters of public import "[I]t was by God's grace," the Qur'an says, "that thou [O Muhammad] didst deal gently with thy followers: for if thou hadst been harsh and hard of heart, they would indeed have broken away from thee. Pardon them, then, and pray that they be forgiven. And consult with them in all matters of public concern."¹¹³

Accordingly, the Prophet consistently asked his companions' advice and opinions, especially in connection with military strategy and tactics (such as in connection with the battles of Badr, Uhud, and al-khandaq) and when he was considering appointing, for example, provincial governors and other executives. No less significant is the fact that he unflinchingly acted in accordance with the dominant opinion of his companions—even when it was different from his own.

While participation in decision making through consultation was thus established as a right during the Prophet's own lifetime, participation in the selection and appointment of top leaders and executives of the *Umma* was no less clearly established in connection with the selection and appointment (though with variations in method owing to varying circumstances) of the four *Rashidun*, or Rightly Guided, caliphs who succeeded the Prophet in the headship of the *Umma* and the state: Abu Bakr al-Siddiq, Umar ibn al-Khattab, 'Uthman ibn 'Affan, and 'Ali ibn Abi Talib. The conduct of the *Rashidun* in the management of both personal and public affairs, being generally regarded as normative by the *Umma* at large, is much admired and often cited in connection with *shura* and participation in particular.

A second important feature of Islamic governance that was clearly established from the earliest stages in Islamic history was the fact that the rulers and the ruled alike are subject, equally and without exception, to the one and same system of laws: the *shari'a*. More easily recognizable nowadays in connection with such notions as the "rule of law" and "equality under the law," this was clearly understood as a fundamental precondition of justice—often described, not unreasonably, as probably the most important principle in the sociopolitical perspective of Islam.¹¹⁴ The Qur'an repeatedly and emphatically states the importance of justice and calls upon Muslims to steadfastly uphold it, whatever the circumstances: "O You who have attained to faith! Be ever steadfast in upholding equity, bearing witness to the truth for the sake of God, even though it be against your own selves or your parents and kinsfolk. Whether the person concerned be rich or poor, God's claim takes precedence over [the claims of] either of them. Do not, then follow your own desires, lest you swerve from justice: for if you distort [the truth], behold, God is indeed aware of all that you do!"¹¹⁵ And: "O You who have attained to faith! Be ever steadfast in your devotion to God, bearing witness to the truth in all equity; and never let hatred of anyone lead you into the sin of deviating from justice. Be just: this is the closest thing to being God-conscious. And remain conscious of God: verily, God is aware of all that you do."¹¹⁶

Of particular relevance to rulers and holders of public office is the following Qur'anic injunction: "Behold, God bids you to deliver all that you have been entrusted with unto those who are entitled thereto, and whenever you judge between people, to judge with justice."¹¹⁷ Provided that those who are in public office are just and diligent in delivering all that they have been entrusted with unto those who are entitled thereto, then it is the duty of the ruled not only to obey their rulers but to actively and positively help them carry out their duties to the *Umma* and to the people at large. Not insignificantly, the above quoted Qur'anic passage is immediately followed by this admonition: "O you who have attained faith! Obey Allah and obey the Messenger [of Allah] and those of you who are in authority."¹¹⁸

In the words of the Prophet, "Hearing and obeying is binding on a Muslim, whether he likes or dislikes the order, so long as he is not ordered to commit a sin; but if he is ordered to commit a sin, there is no hearing and no obeying."¹¹⁹ In other words, obedience and allegiance are conditional upon the obedience of those who are in authority to God and his

messenger—the Qur'an and the *Sunna*, the *shari'a* to which one and all are subject. Fully conscious of the contractual nature of the caliphate to which they were the first to succeed, both Abu Bakr and 'Umar, in their respective acceptance speeches, asked the people to obey and assist them as the caliphs obeyed the law—otherwise to speak up and put them right. Abu Bakr's memorable words are worthy of special consideration. "I have been given authority over you even though I am not the best of you," he said. "If I do well, help me, and if I do ill, then put me right. The weak amongst you shall be strong in my eyes until I shall by the grace of God secure his right; and the strong amongst you shall be weak in my eyes till I shall by the grace of God wrest the right from him."¹²⁰

Like the management of the affairs of the *Umma*, freedom of speech, particularly when exercised with a view to promoting right and combating wrong in the public sphere, is regarded in the Islamic tradition not only as a right but also, and even more importantly, as a moral and religious as well as political or civil duty. Not to speak out when the situation calls for speaking out, and not to do so honestly, is to fail oneself as well as the *Umma*—not only politically, but also morally and in terms of religious conviction. To abuse the freedom in question by making slanderous accusations (*gadhf*) or through libel (*fitna*) or insult (*sabb; shatm*) on the other hand would constitute not just a moral failure on the part of the individual concerned, but an offense under the *shari'a*, as well as secular laws.¹²¹ What is required, instead, is responsible, sound, and well-measured constructive criticism or advice as may be appropriate. Indeed, this is so greatly valued in the Islamic tradition that the Prophet actually described it as the very essence of Islam in sociopolitical practice, *al-Dinu al-nasihah*. In another, often quoted *hadith*, it is ranked at an even higher level: "The highest kind of jihad is to speak up for the truth in the face of a government [sultan] that deviates from the right path."¹²²

In order to establish justice at the administrative and socioeconomic as well as the purely juridical level, a number of institutions evolved in classic Muslim societies in addition to the highly sophisticated institution of the judiciary, or *qada'*. Particularly interesting in this connection was the *wilayat al-mazalim*, or commission of complaints, that (evidently anticipating the modern Scandinavian institution of the ombudsman, of which it may well have been an antecedent) specialized in investigating complaints levied by members of the public against the high and mighty in society and the state.¹²³

THE METAPHYSICAL FOUNDATIONS OF PLURALISM IN ISLAM

ONE OF THE most striking features of traditional Muslim societies and states, one that until recent times continued to be distinctive of Islamic civilization and, as such, aroused the admiration of such early modern Western thinkers as John Locke, is that they were almost always multireligious and multiethnic.¹²⁴ Particularly intriguing for many was the question of how a state or civilization that was based on a particular faith (in this case, Islam)—instead of doing its utmost in order to coerce others into conforming to the dominant faith, as had often been done elsewhere—evidently went out of its way to guarantee those others extensive rights, which made it possible for them to live, work, own property, and also to freely exercise their faith under the protection of the ruling state and its laws.

To approach adequately the issue of the metaphysical foundations of pluralism in Islam, one needs to look first of all at the roots of pluralism in Islam's theological outlook and worldview and, second, at the specific teachings of the *shari'a* about the rights of non-Muslims in Muslim societies. To take the former point first, we need to consider the sharply contrasting positions in Islamic theology and worldview of the oneness and uniqueness of God (Allah) on the one hand, and the diversity of his creations—animate and inanimate, human and nonhuman—on the other.

With regard to the oneness and uniqueness of Allah, the Qur'an categorically and unequivocally states that humans, individually and collectively, are called upon to testify as follows: "Say: He is Allah the One and Only; Allah the Eternal, Absolute; He begets not, nor is He begotten; and there is none like unto Him."¹²⁵ And again: "[He is] the Creator of the heavens and the earth. . . . [T]here is nothing whatever like unto Him, and He is the One that hears and sees" [all things].¹²⁶ It is thus repeatedly and categorically stated that He is the one, unique, eternal, and absolute, creator of heavens and the earth and of all that in existence: all-hearing, all-seeing.

To those who claim that they do believe in Him but who persist in believing that there are other gods or deities besides Him, the Qur'an addresses a variety of uncontestable logical arguments as well as some serious warnings and admonitions: "If there was, in the heavens and the earth other gods besides Allah, there would have been confusion in both."¹²⁷ Furthermore, "Allah forgives not that partners should be set up

with Him, but He forgives anything else to whom He pleases. To set up partners with Allah is to devise a sin most heinous indeed."¹²⁸

By contrast with the categorical and uncompromising assertion, again and again, of the creator's oneness, omnipotence and uniqueness, his creatures, be they animate or inanimate, humans or animals, are seen and described as being always numerous, diverse, and varied:

Seest thou not that Allah sends down rain from the sky? With it we then bring out produce of various colours. And in the mountains there are tracts white and red of various shades of colour and black intense in hue. And so among men and crawling creatures and cattle are there various colours. Truly those fear Allah among His servants who have knowledge.¹²⁹

And among His signs is the creation of the heavens and the earth, and the variations in your languages and your colours: verily in that are signs for those who know.¹³⁰

But the diversity and variations that Allah has vested in his terrestrial creatures as signs of himself, along with the creation of the heavens and the earth, are not limited to mountains, animals, plants, and the variation in the colors and languages of men. Even more significantly and directly in relation to the subject under consideration is the fact that Allah tells us in several passages in the Qur'an that this diversity and variation applies also to matters of faith and belief: "It is He who has created you; and of you are some that are unbelievers, and some that are believers; and Allah sees well all that ye do."¹³¹ And again, and perhaps even more clearly:

To each among you have We prescribed a law and an Open Way. If Allah had so willed He would have made you a single people, but [His Plan is] to test you in what He hath given you; so strive as in a race in all virtues: the goal of you all is Allah. It is He that will show you the truth of the matters in which you dispute.¹³²

Whereas the oneness, uniqueness, and inimitability are distinctive attributes of the creator, variety, multiplicity, and plurality are attendant characteristics of all created beings, animate, and inanimate, human and nonhuman. Insofar as human beings are concerned, the variety and plurality

that has been vested in them by their creator is not limited to such matters as language, pigmentation, and ethnicity only. It is also—and more importantly—manifested by the will of the creator himself, in matters of faith and belief, up to and including disbelief. Variety and pluralism therefore are clearly and profoundly intrinsic to the Islamic worldview, a worldview wherein all creatures are diverse and varied, in which only the creator, Allah, is one, eternal, and absolute; He begets not, nor is He begotten, and there is none like unto Him.

It is in this profoundly and divinely ordained pluralistic worldview that non-Muslims in Muslim societies and states were granted and guaranteed such rights and privileges that enabled them, in most cases, not only to exist and survive, but also to prosper and participate in the economic, social, cultural, and even political and diplomatic life of the Islamic states and societies in which they lived. And it is to these rights and rules that we now turn.

Of cardinal importance for the treatment of non-Muslims among the basic values and principles enshrined in the Qur'an is the following ruling: "There Shall Be No Compulsion in Matters of Faith."¹³³ This categorical statement forbids Muslims, be they individuals, groups, or states, from trying to impose their faith on any person by force. Compulsion therefore is not only a sin; it is also a crime punishable by *shari'a* law—the punishment under the Ottoman Empire being death, an injunction derived from the Qur'anic precept that "tumult and oppression are worse than slaughter."¹³⁴

Other Qur'anic directives buttress and elaborate on the principle of inadmissibility of compulsion in matters of faith, indicating that the call to Islam must be directed to the intelligence, conscience, and sensibilities of men and women. Respect for the dignity and integrity of all human beings, of whatever faith or origin they may be, is essential, and that compassion and courtesy should be observed in all circumstances.

This brings the discussion to another basic principle relating to the treatment of minorities and non-Muslims in Islam. It is stated in chapter 60 of the Qur'an: "God forbids you not with regard to those who fight you not for [your] faith nor drive you out of your homes from dealing kindly and justly with them: for God loveth those who are just."¹³⁵ In other words, Muslims are not only to refrain from oppressing others or forcing them to embrace a faith that they may not freely wish to accept (an essentially negative ruling—though a very important one indeed). Muslims are also expected and called upon to be positively kind and just to all

those non-Muslims who do not persecute them or commit acts of aggression against them, all those who are peaceful and law-abiding citizens.

As the founder and head of the first Islamic state, Prophet Muhammad confirmed and elaborated on the Qur'anically prescribed manner of just and kindly dealing with non-Muslims not only verbally and in writing, but also through his actions and practice, and this in both his personal life and in his management of public affairs. Thus, he unhesitatingly engaged in business transactions jointly with non-Muslims. Indeed, he departed this world leaving his armor pawned to a Jew. More intimately, he took two wives from among non-Muslims, one being Jewish, the other Christian.

Furthermore, he endeavored politically, not without success, to establish what came to be the first characteristically multiethnic and multi-religious Islamic state. Thus, the *Ansar* and the *Muhajirun* were welded, in the Charter of Madina, into "an *umma* distinct from all other people in the world," and the Jewish clans who had then allied themselves with the Prophet were described in the Charter of Madina as "an *umma* [i.e., community] along with the Believers," while each continued to practice its own faith. Subsequent developments regarding the juridical status of non-Muslims in Muslim societies and, more importantly, their actual life experiences in the Muslim world until the present time will be considered in chapter three.

Relations with non-Muslims beyond the realm of Islamic sovereignty, too, the Qur'an directs, should be peaceful and amicable unless aggression is committed against the Muslims: "Fight in God's cause against those who wage war against you, but do not commit aggression."¹³⁶

Even when fighting in self-defense, Muslims are instructed to observe certain rules and rights of enemy subjects and not to engage in indiscriminate destruction of life and property. "Whenever the apostle of God sent forth an army or a detachment," it has been reported, "he charged its commander personally to fear God, the Most High, and he enjoined the Muslims who were with him to do good [i.e., to conduct themselves properly]. . . . Do not cheat or commit treachery nor should you mutilate anyone or kill children."¹³⁷ Following the Prophet's example, Abu Bakr later gave the following instructions to fighters who were about to proceed against the Byzantines in Syria: "Do not commit treachery, nor depart from the right path. You must not mutilate, neither kill a child or aged man or woman. Do not destroy a palm-tree, nor burn it with fire, and do

not cut any fruitful tree. You must not slay any of the flock or the herds or the camels, save for your subsistence. You are likely to pass by people who have devoted their lives to monastic services; leave them to that to which they have devoted their lives."¹³⁸

Another important directive is enshrined in the Qur'an: "And if anyone [even] of the *Mushrikan* [i.e., polytheists or pagans] seeks your protection then grant him protection . . . and then escort him to a place where he will feel secure."¹³⁹ Al-Fakhr al-Razi, in his classic commentary on the Qur'an, said that the essential meaning of this passage is that any one from among the enemy forces who seeks protection should, together with his property, be fully and effectively protected by Muslims and must thereafter be conducted to a place where he would feel safe and secure.¹⁴⁰

Likewise, prisoners of war are not to be killed, tortured, or humiliated. On the contrary, they should be well treated and safely kept until a final settlement of conflict is reached. In that regard, the Qur'an, having commanded Muslims faced by injustice and aggression to stand up and fight as best as they can, then says, "But if they [the enemies who fight you] incline towards peace, you also [should forthwith] incline towards peace. . . . [S]hould they intend to deceive you, then verily Allah is All-Sufficient for you."¹⁴¹ Thus Muslims are commanded, once their enemies indicate a desire to make peace, to unhesitatingly also go for peace, even if they thereby happen to run the risk of being tricked by their enemies.

ISLAM AND NATURE

ANOTHER INTERESTING AND important aspect of the human rights tradition in Islam is that it in fact extends beyond humanity to include nature, both animate and inanimate. The Qur'an frequently refers to animals, birds, and insects of various kinds and says that they are God-created species, "like yourselves" (*umaman amthalukum*).¹⁴² The Prophet was known for his kindness to animals. Not surprisingly, many of his close companions, including 'Umar ibn al-Khattab, the second caliph, took special interest in the prevention of cruelty to animals. By the fourteenth century, one finds that Muslim animal lovers in cities as far apart as Fez and Damascus had established special *awqaf*, or endowments, specifically for the purpose of taking care of old animals, injured birds, and so on.¹⁴³

Meanwhile Al-Jahiz, probably the most celebrated figure in the history of Arabic literature, produced a multivolume encyclopedia on animals, of which he dedicated several pages to an erudite and witty discussion on the ethics of hunting, fishing, and killing of animals for human consumption. Later on, the Pure Brethren of Basra, a tenth-century society of thinkers who authored an encyclopedic work called the *Epistles* that describes a route to spiritual purification and ethical refinement dedicated the entire second volume of their encyclopedia to a fascinating philosophical debate on the subject, which took place between animals and man before the king of the jinn.¹⁴⁴ The great contemplative poet Abu'l 'Ala' al-Ma'arri (973–1057 C.E.), some of whose work was a major source of inspiration for Dante Alighieri, renounced eating honey because, he argued, the act meant condoning the violence inflicted by honey farmers and consumers on young bees, for whom the honey was originally meant.

Clearly therefore, care and concern for animals that the Qur'an itself had considered as being species "like you" remained widespread and deeply rooted in classical Islamic civilization. Inanimate as well as animate nature is important for humans not only on account of the bounties, including air, water, vegetation, birds, and animals, on which they thrive; nor is it just because of humans' enjoyment of the awesome glory of the starry heavens above, the fathomless galaxies beyond, and the captivating beauty of the fauna and flora that ornament the mountains, valleys, and rivers that girdle the globe. Even more important, the *ayat*, or signs, that are written across nature everywhere, like the *ayat*, or verses, of the Book, awaken one to the possibilities of seeing the master truth, the Lord-Creator of the universe.

Unfortunately, however, modern humans, despite all their claims to wisdom, knowledge, and rationality, have for generations now been busy destroying this small planet earth, on which humanity as well as other species live, polluting and littering the earth's atmosphere as well as the space beyond with remnants of the thousands upon thousands of rockets, missiles, and other debris that they are constantly hurling about. As the Qur'an says, however, "[W]hen they are told: 'Do not spread corruption on earth,' they answer, 'We are but improving things!' Oh, verily, it is they, they who are spreading corruption—but they perceive it not!"¹⁴⁵ They are indeed "the iniquitous who break their bond with God after it has been established [in their nature] and cut asunder what God has hidden to be joined, and spread corruption on earth: these it is that shall be losers."¹⁴⁶

If humanity is to be saved from itself, and if planet earth is to be spared further, possibly final, self-destruction, one simple lesson derived from the human rights tradition in Islam may be worth considering: It may be time for humans to stop thinking in terms only of human rights and to start thinking, instead, about rights and duties, not only in relation to themselves in isolation, but in relation also to nature, both animate and inanimate, and, beyond all creation, to the Lord-Creator of all.

3

THE INTERPLAY OF THEORY AND PRACTICE: QUESTIONS OF GENDER AND MINORITIES

As for such [of the unbelievers] as do not fight against you on account of your faith, and neither drive you out from your homelands, God does not forbid you to deal kindly with them and to behave towards them with full equity; for, verily, God loves those who act equitably.
Qur'an 60:8

The best amongst you are those who are best to their womenfolk.
Prophet Muhammad

The most difficult task I have faced in years of teaching Islam is how to provide an accurate account of the role of women in face of the deep prejudices of not only my students but also my colleagues. . . . [I]t was natural for them to [assume] that Eastern women, and especially Muslim women, are the most oppressed and downtrodden women on earth.

Sachiko Murata, in *The Tao of Islam: A Sourcebook on Gender Relationship in Islamic Thought*

HAVING REVIEWED THE conceptual context and general structure of the human rights tradition in Islam and some of the basic teachings expressed in the Qur'an, we now turn to a closer look at the evolution and development of the two important issues of

treatment of women and of minorities in Muslim societies in general. An attempt will be made to examine whether the said teachings and principles helped shape and mold society in the manner intended, or were themselves to a greater or lesser extent changed and modified by the weight and inertia of preexisting customs and traditions on the one hand, and the dynamics and momentum of changing circumstances and unforeseen events on the other.

THE LIFE EXPERIENCE OF NON-MUSLIM MINORITIES IN MUSLIM SOCIETIES

THE FIRST and most striking feature that distinguished traditional Muslim societies from Christian medieval Europe, as the German Orientalist Adam Mez noted many years ago, is that within the borders of the former, unlike in the latter, there lived a large number of peoples of faiths other than Islam and that all these peoples, in Mez's words, lived "side by side in an atmosphere of toleration absolutely unknown to Medieval Europe."¹

In the light of what has already been said in the previous chapter regarding the attitudes of the Qur'an and the Prophet toward other faiths and peoples, it should not be surprising that Mez's point had already been well understood and fully appreciated as early as the seventh century, especially by the inhabitants of those territories to the east and the west of Arabia, which were destined to become the heartlands of the Muslim world. Thus it came about that the predominantly Christian peoples of Egypt and Syria, who were followers of Eastern churches and, as such, had been subjected to discrimination and persecution by their Orthodox Byzantine rulers, welcomed the conquering Muslim Arabs as liberators from their oppressive coreligionists. The people of Iraq, who had been similarly oppressed by dominant Zoroastrians, reacted to the Muslim Arab conquest in a similar way. Even as far away as the Iberian peninsula, the theologically sanctioned policies of repression and forced conversion that were followed by the Roman Catholics of Spain induced the Jews to welcome and aid the Muslim conquerors as liberators.²

Two points are worth noting at this juncture. First among these is that the term tolerance, which is often used with reference to the normally accommodating attitude of Muslims toward others, does not accurately reflect the nature of the Muslim attitude in question. This was not only

because "tolerance" often implied a grudging or reluctant willingness to coexist with others that is quite different from the attitude with which we are now concerned, but also because it misses the reality that the Muslim commitment to respect and protect the rights of non-Muslims who are willing to live in peace with them is, in essence, an act of worship and religious devotion. Failing to uphold these rights is a sin as well as a crime punishable by law. Upholding and protecting them, on the other hand, is an act of piety and religious devotion through which Muslims, individually and collectively, hope to merit divine approval and heavenly reward. This is the psychological bedrock upon which the whole system is so firmly anchored, a crucially important point that has eluded many commentators, including some who have expressed great admiration for its actual working and practical results.

Under Islamic law, non-Muslim residents have traditionally been described as *Dhimmis* or *Ahl al-Dhimma*—literally, "people of the pact or agreement." This refers to the perpetual pact or agreement in accordance with which Muslims have undertaken since the days of the Prophet to respect and protect the rights of non-Muslims to life, property, religious belief and practice, movement, marriage, and to bring up their children according to their respective faiths.

In addition, *Dhimmis* enjoyed a substantial degree of autonomy or self-government, which enabled members of each religious community (better known under the Ottomans as *Millet*s) to manage their own affairs and to settle their personal and other disputes in accordance with the rules and traditions of their respective faiths. If they were dissatisfied with their own communal justice, they had the right to seek justice and settlement of disputes in Islamic courts, but that was an option that was always clearly understood that they could take or leave as they saw fit. Commenting on the latitudinal extent of the degree of self-government that the Jews and Christians in particular enjoyed under the banner of Islam, the late Princeton University professor S. D. Goitein began and concluded the second volume of his magisterial study of the Jewish communities of the Arab world as portrayed in the Cairo Geniza by highlighting the fact that these Christian and Jewish communities living under Islam during the High Middle Ages actually

formed a state not only within a state but beyond the state, because they owed loyalty to the heads and to the central bodies of their respective denominations, even though these were found in a foreign, or even hostile

country . . . while [they] shared with their Muslim compatriots their language, economy and most of their social notions and habits, their communal life was left mainly to their own initiative.³

In return for all these rights, *Dhimmis* were expected to acknowledge and respect the supremacy of the Muslim state under whose protection they lived and enjoyed these rights. They also had to pay *jizya* or protection tax. An important point about the nature of *jizya* was confirmed by Khalid Ibn al-Walid (d. 642 C.E.) when, having been forced back from certain parts of Syria by the Byzantines, he voluntarily returned the sums that had previously been collected as *jizya*, rightly saying that the money had been collected for providing security and defense, which, for the time being he and his forces had failed to provide. Unlike the *zakat* or property tax that all Muslims, male or female, young or old, had to pay annually at the rate of 2.5 percent on their herds, commercial goods, and cash holding, *jizya* was exacted only from adult males capable of bearing arms. (It was, partly, a tax in commutation of military service; women, children, and monks were therefore exempted.) Under the 'Abbasid caliphate, rich males had to pay forty-eight drachmas; those with average means, twenty-four; craftsmen and peasants paid only twelve drachmas per annum.⁴

Regarding the manner in which *jizya* was levied, it is worth quoting the classic letter that Qadi Abu Yusuf addressed to Caliph Harun al-Rasheed (763–809 C.E.):

O Commander of the faithful! May God help thee! It is necessary that thou shouldst treat the people who were protected by the Prophet . . . with leniency, and inquireth about their conditions so that they are neither oppressed, nor given trouble, nor taxed beyond their capacity, nor anything of theirs is taken from them except with a duty incumbent on them. For it is reported from the Messenger of God [that he] said: Whoever oppresseth a non-Muslim or burdens him beyond his capacity, I myself shall be his accuser (or contestant) on the day of judgement.⁵

The unprecedented willingness of the Muslims to accommodate others, coupled with the freedom provided for these people to administer their own affairs under the *Dhimma* (or, under the Ottomans, *Millet*) system, guaranteed that none of these peoples were disappointed in their expectations of a better life under the banner of Islam.

But problems did occasionally arise—and for reasons that are well worth pondering. The Jews of Muslim Spain (or al-Andalus), especially from the reign of 'Abd al-Rahman III in the tenth century until the coming of Almuwahhidun (Almohads) in 1140, experienced an unprecedented cultural flowering, indeed a golden age as it has rightly and often been described, which was a direct result of their having been admitted as full partners in the then leading world civilization of Islam.⁶ In addition, the Jews of Andalusia then enjoyed political power and influence that no other Jewish community was able to attain anywhere in the world, and which remained unparalleled in the history of Europe until after the Renaissance.⁷ Indeed, Jewish viziers and courtiers such as Hasday ben Sharput and Ismail Ibn al-Naghmila (993–1056 C.E.; known in Hebrew as Samuel the Nagid) became so powerful and dominant in the public life of Muslim Spain that many Andalusian Muslims sincerely felt that the terms of the pact of *Dhimma* had thereby been definitely breached in favor of the Jews. Abu Ishaq al-Ilbiri (fl. 1050 C.E.), a Granadan *faqih*, wrote a poem in 1066 that typically expressed such views:

How can they have any pact
When we are obscure and they are prominent?

Now we are the humble beside them
as if we are wrong and they right!

Do not tolerate their misdeeds against us
for you are surety for what they do.

God watches His own people
and the people of God will prevail.⁸

Partly incited by this poem, riots then broke out in Granada in the course of which many Jews were killed by mobs. It is important to note, however, that this was the only event of its kind ever recorded in the history of Muslim Spain.⁹ As Bernard Lewis, a Middle Eastern specialist at Princeton, has pointed out, "in striking contrast to the anti-Semitism of Christendom, Abu Ishaq even in his outrage [did] not refuse Jews the right to life, livelihood, and the practice of their religion."¹⁰ As a jurist, Abu Ishaq was fully aware that these rights were guaranteed by the *shari'a* and incorporated in the binding pact of the *Dhimma*, which the Jews had

violated, thereby forfeiting the protection to which they would have otherwise been entitled.¹¹

Seventy-four years later, in 1140, Almuwahhidun (Almohads) invaded al-Andalus. The invasion was a serious setback for the social and cultural development of both the Muslims and the Jews of al-Andalus; many, Muslims and Jews alike, including the family of the subsequently famous physician and philosopher Musa Ibn Maymun (1135–1204 C.E.; otherwise known as Maimonides) then left Andalusia for other, mainly Muslim, lands where they could feel safe and more comfortable. But until the thirteenth century, it has been authoritatively said, “Jews living under Islam fared better on the whole than those living under Christendom.”¹² Things turned worse with the advance in Spain of the Christian *reconquista*, especially from the thirteenth century onward. Anti-Jewish pressure from both the masses and the church mounted until 1391, when pogroms and mass conversions heralded the collapse of the Jewish community in Spain.¹³ The end came in 1492, when the last remaining Muslim principality in Andalusia (Granada) was overwhelmed. The Jews were then finally expelled from Spain, many of them taking refuge in other Muslim states such as Morocco, Tunisia, Egypt, and elsewhere in the vast territories of the Ottoman Empire in East Europe, Western Asia, and, later, North Africa.

Jewish experience in the eastern lands of Islam was, in many respects, similar to their experience in the heyday of Muslim Spain. But there were some important differences. The most significant of these was the fact that under the Abbasid caliphate, for example, there were many more religious groups and *Dhimmi* communities than there were in al-Andalus. The Jews, therefore, were only one group among many. These included the Sabaeans, who were mainly based in Harran. There were also the Zoroastrians, after whom a well-known street in Baghdad was named, *Darb al-Majus*, in which, incidentally and not insignificantly, the famous Ash'ari theologian al-Baqillani (950–1013 C.E.) resided.¹⁴ There were many more Christian inhabitants in both Baghdad and the caliphate at large. But they were divided into a number of Eastern churches, notably the Nestorians and the Jacobites. The Jews had a considerable though smaller presence than the Christians; their number in Baghdad was estimated in 1168 at about 40,000 with twenty-eight synagogues and ten academies of learning.¹⁵ But they were divided into two major groups: the Karaites, who refused to incorporate the oral Torah, and the Rabbanites who held strictly to rabbinical interpretation.

With the exception of the Manicheans, a group that was not regarded as a protected community and that later migrated to distant lands as far as China,¹⁶ all these religious communities were accepted as *Dhimmis* and thus enjoyed the rights to life, property, religious faith, and others that were perpetually guaranteed in the *shari'a* for all *Dhimmis* throughout *Dar al-Islam*. Not surprisingly therefore, they all flourished and, in different ways, contributed to the life and culture of the characteristically multi-ethnic and multireligious Islamic society in which they all lived.

Thus the Sabaeans and the Christians played a key role in transmitting the thought and culture of antiquity in the fields of philosophy, mathematics, medicine, and astronomy.¹⁷ The contribution of the Jews in this regard was, by comparison, modest. But as *jahabidha* (bankers and financiers) they played prominent roles in the financial and business life of the greater community. It thus came about that the famous *Darb al'Awn* street on which the banking house of Joseph Ibn Phineas and Aaron Ibn Amran was reportedly located has been quite suitably described by a modern writer as “the Wall Street of Baghdad.”¹⁸ But business did not always go on as usual. In other words, problems did sometimes arise. Thus the Jacobite Church of Mar Tuma, which was situated in Qat'at al-Nasara on the west side of Baghdad, was devastated in a popular uprising in 1002.¹⁹

Under the Buyids (945–1055 C.E.), the Jews and the Shi'is developed a remarkably close friendship, which benefited the Jews in the short run. The decline of the Buyids was, however, attended by periodic turbulence and urban strife in the course of which (in the year 1031) houses and stores of Jews were attacked because they were friends and allies of the unpopular Buyids.²⁰ But such events were exceptional, and Muslims as well as non-Muslims were often caught up in the urban turbulence and strife that gave rise to them. Over and beyond the hustle and the bustle of the market place and the city street, “the most amazing feature of traditional Islamic societies,” wrote Mez, was the number of non-Muslims in state service. “In his own Empire,” Mez continued, “the Muslim was ruled by Christians.”²¹

As already noted, strong objections to this kind of situation were raised in Granada in 1066. Similar developments induced comparable reactions elsewhere in *Dar al-Islam*, including Syria and Palestine. But Fatimid Egypt was perhaps the clearest and most extreme example of both the domination of governmental affairs by *Dhimmis* and its popular and, in due course, official rejection.

Under al-Mu'izz, Jewish physicians and courtiers were so influential that it was often said that nothing could be done in his court without help of some Jew or other.²² Under Aziz, on the other hand, Christians were favored while Jews continued to wield considerable power. Not idly, therefore, did one poet sing:

Become Christian, for Christianity is
the true religion, our time proves it so!
Worry not about anything else:
Yaqub the Wazir, is the Father;
Aziz, the son; and
Fadl the Holy Ghost!²³

Meanwhile, another poet wrote:

Today the Jews have reached the
summit of their hopes and have become aristocrats
Power and riches have they, and from among them
Are councilors, and princes chosen.
Egyptians, I advise you, become Jews for the very sky
Has become Jewish!²⁴ [*Ya ahl al misra inni qad nasahutu lakum
tahawwadu qad tahawwada'l falaku!*]

Public opinion and emotion were thus mobilized, and before long mob violence broke out, resulting in the destruction of many churches and synagogues. Much more significant in this connection, however, was the attitude of the Fatimid caliph at the time, al-Hakim bi-Amrillah (986–1021 C.E.). An eccentric and cruel man by temperament, al-Hakim earned for himself the dubious distinction of having been described as the Nero of Islam. As if driven by a mysterious and deep-rooted sense of guilt for the excessively liberal policies of his father, al-Hakim devised a series of peculiar measures whereby Jews and Christians were molested and humiliated; Muslims (especially women) were greatly discomforted by his arbitrary and senseless actions.²⁵ At the same time, however, al-Hakim continued the old policy of appointing *Dhimmi*s to high offices of state.²⁶

More balanced policies were followed by the Ayyubids (1171–1259 C.E.), especially Salahuiddin. Among his closest physicians and counselors, incidentally, was the most distinguished Jewish philosopher in the middle ages, Maimonides, whose family had left al-Andalus after the Muwahhidun

invasion of 1140 but, significantly, sought refuge in other Muslim states. Salahuiddin and the Ayyubids have of course been immortalized in the annals and folklore of both Islam and Christian Europe owing to the decisive role they played in beating back the crusaders and in restoring Jerusalem and other territories that had been occupied by the crusaders to *Dar al-Islam*.

In this connection it should be noted that the Crusades had a decidedly negative effect on the position of the *Dhimmi*s in general and the Christians in particular. This was because several Christian communities in countries such as Syria and Egypt identified with the crusaders and had to pay a price after the crusaders had been defeated.²⁷ The Jews, of course, had no liking for the crusaders, but they were sometimes caught in the backlash. Perhaps not surprisingly, non-Muslims in general were seen in these turbulent times as unreliable.²⁸

The doubts about the loyalty of non-Muslims that were thus sown were deepened further in consequence of the Mongol occupation of the heartlands of *Dar al-Islam*, including Baghdad from 1258 onward.²⁹ They found that the Jews and the Christians could serve as useful instruments for carrying out their policies in the occupied territories of *Dar al-Islam*. In due course, however, as is well known, the Mongols were won over to Islam and became dedicated defenders of the faith. Jews and Christians had once again to pay for their collaboration with the pagan invaders.³⁰

Considered against this background, the efforts that were subsequently made by the Ottoman Turks to revive and restore the traditionally amicable relations that had for centuries existed between Muslims and *Dhimmi*s in *Dar al-Islam* are worthy of special notice. The *firman* issued by the Ottoman sultan Mehmet III (1566–1603 C.E.) in March 1602 is a typically clear statement of the obligations of traditional Muslim states toward *Dhimmi*s:

Since, in accordance with what Almighty God the Lord of the Universe commanded in His Manifest Book concerning the communities of the Jews and Christians who are people of the *Dhimma*, their protection and preservation and the safeguarding of their lives and possessions are a perpetual and collective duty of the generality of Muslims and a necessary obligation incumbent on all the sovereigns of Islam and honourable rulers. Therefore it is necessary and important that my exalted and religiously inspired concern be directed to ensure that, in accordance with the noble Shari'a, every one of these communities that pays tax to me should live in tranquility and

peace of mind and go about their business, that no one should prevent them from this, nor anyone cause injury to their persons or their possessions, in violation of the command of God and in contravention of the Holy Law of the Prophet.³¹

As the Ottoman archives and scholars who are familiar with these sources amply testify, the sultans, qadis and, governors of the Ottoman Empire were indeed true to their words, and members of the non-Muslim minorities were able to count on their support whenever any of the rights guaranteed to them by the *shari'a* and the state were threatened or breached.³²

By the end of the seventeenth century and the beginning of the eighteenth, however, the Ottoman Empire was already in decline. In the course of the nineteenth century, it was progressively eroded by the rising tide of the new doctrines of nationalism and national self-determination.³³

The declining Ottoman Empire thus disappeared as a result of the combined forces of the fast-spreading doctrines of nationalism and national self-determination as well as the policies of the Allies (mainly Britain and France) who had emerged victorious from World War I and then proceeded to dismember the remaining core of the last surviving traditional Islamic state or sultanate.³⁴ By midcentury, however, Britain and France had in turn fallen victim to the same forces of nationalism that had earlier been important factors in the dissolution of the Austro-Hungarian and Ottoman Empires.

What eventually emerged in the Middle East as elsewhere in the Muslim World was a series of nation-states in which nationalism (focused on the attainment of independence) had indeed developed, whereas nations as coherent sociopolitical entities were, in most cases, yet to be formed.³⁵ The logic of nationalism and the nation-state is in many ways quite different from that of traditional Islamic states. Insofar as minorities are concerned, two points merit special attention.

First is the fact that, whereas in traditional Islamic states the basic factor in determining a person's identity and hence his or her rights and duties within the larger community and the state is the faith or religion one espouses, religion in the often secular nation-state, far from being of such crucial or central importance, is regarded as an essentially or even an entirely personal matter. Rights and duties are instead ascribed to individuals in their capacity as citizens of the patria or subjects of the state. And

since citizens are regarded as equal in law or principle, their rights and duties are similarly viewed, in principle, as being also identical and undifferentiated, whether on religious or other bases.

Considering their incomparably humane heritage in the treatment of minorities, it is not surprising that modern Muslims, having adopted the now universal notions of nationalism and the nation-state, have also adopted the principle of religiously undifferentiated equality in law between citizens in their various countries across the globe. In traditional terminology, it is as if modern Muslims had thereby bound themselves everywhere in a new '*ahd*' or pact with their non-Muslim compatriots and fellow citizens, a pact in accordance with which all citizens have the same duties and enjoy the same rights irrespective of religious or sectarian differences.

As was the case during the Crusades, however, modes of behavior that threaten or infringe upon the integrity of the state or the well-being of society as a whole are resisted, and the perpetrators, whether Muslim or non-Muslim, are not permitted to avoid the consequences of whatever infringements of the law and the security of the state they may have committed or otherwise been caught up in. Thus, after the creation of Israel in 1948, hundreds of thousands of Jews who, centuries earlier—especially after the Spanish Inquisition and other forms of persecution in Christian Europe—had settled in various Arab countries in both North Africa and West Asia, suddenly found themselves actually or presumably in sympathy with Israel. Not surprisingly, the majority of Arab Jews chose to leave their Arab homelands that had sheltered them for long periods of time but where they were no longer able to live as loyal citizens.

Similarly, Maronite Christians who, led by General Antoine Lahd in Southern Lebanon, had allied themselves with the Israelis against their fellow Arabs and were, as such, instrumental in the massacre of Palestinian refugees in Sabra and Chatila led by Ariel Sharon, lost their credibility as compatriots, and their position in Lebanon and elsewhere in the Arab world has become untenable. Another example is the Baha'is of Iran, who likewise became outlawed in Iran because of their association with Israel, where their headquarters are established in Haifa.

It is important to note, however, that where religious minorities have kept their side of the pact, or '*ahd*', and steered clear of treachery, they have continued to enjoy full rights as citizens of various Muslim nation-states. This is true in Egypt, where a policy of positive discrimination since independence has guaranteed the Copts a certain number of ministerial

posts in addition to the rights they normally enjoy as citizens along with others.

But the clearest examples of Muslim nation-states in which religious minorities have been able to wield considerable power and influence are Syria and Iraq. For, as members of the ruling Ba'ath parties in the two countries, 'Alawis (or Nusairis), Druzes, and Christians of various denominations not only have continued to live their lives and enjoy their rights as ordinary citizens with others; they have also assumed—and, in the case of Syria, still exercise—political power at the highest levels, including that of president and head of state.

On the whole, therefore, it can fairly be said that by adopting the modern European doctrines of nationalism and the nation-state, Muslims today have, in general, not mistreated religious minorities living among them. On the contrary, it may be argued that they have evolved policies and practices that make them worthy heirs to the remarkable precedents established by traditional Islamic states in the treatment of non-Muslims. In this connection, the words of the late Columbia University professor Edward Said, one of the most perceptive interpreters of Islam and the Arab world in modern times and a Christian Arab by descent, may be appropriately cited: "Islam is something all Arabs share in, and is an integral part of our identity. . . . I have never felt myself to be a member of an aggrieved or marginal minority."³⁶ Said went on to buttress his argument by quoting other Christians from the contemporary Arab world.

On the other hand, the doctrines of nationalism and national self-determination, both in their original European homelands and as transplants in other parts of the world, including the Muslim world where they were mainly adopted on account of their qualities as means of liberation from the yoke of imperialism and foreign domination, have spawned other and far less honorable offspring. Among the less honorable and less admirable consequences of these celebrated doctrines has been the unleashing in Europe itself of Nazism, neo-Nazism, and other forms of racism, including policies of so-called ethnic cleansing whose activities have been perpetrated in Bosnia by the Bosnian Serbs and their backers in Serbia and elsewhere.³⁷ Similarly, these doctrines have had the effect in the Muslim world of unraveling much of what had been so carefully and assiduously built in the context of traditional Islamic civilization by way of integrating peoples of different ethnic and cultural origins and backgrounds into a characteristically multiethnic and multireligious world community (*Umma*).³⁸

Thus the champions of nationalism in various parts of the Muslim world, realizing that nationalism and ethnicity are closely related, were tempted, in many cases, to engage in what might be called ethnic revivalism that not infrequently degenerated into excessive ethnic pride, smacking, especially under the impact of European Nazism and fascism during the 1930s, of racism. Instead of identifying themselves as Muslims first and foremost and only secondarily as inhabitants of this or that part of *Dar al-Islam*, or as members of a certain ethnic or cultural group in a matter-of-fact way, as had in fact happened for centuries previously, priorities were reversed, so that people tended to reclassify themselves, or otherwise be reclassified by their neighbors, as being primarily and above all Turks, Arabs, Kurds, Berbers, Baluchis, and so on.³⁹ oftentimes with exaggerated pride in ethnic or national origin accompanied with bellicose presumptions of superiority toward others. Since a considerable amount of mixing and innumerable cases of interethnic marriages had taken place over the past decades and centuries in the context of classical Islamic universalism, many people, individuals, families, and larger groups now had to be torn apart and arbitrarily removed from those societies in which they had been born and brought up, and were instead made to join others with whom, according to the new classification, they belonged or had to belong.

In spite of all such efforts and the consequent human sufferings that ensued, it has not always been possible to relocate people to newly defined homelands. Some were completely left out because they could not permanently fit in any of the newly created territories. They therefore became, and to this day continue to be, stateless. This applies not only to the Palestinians—most of whom have been either killed off or driven out of their homes by Israeli settler-colonialists—but also the so-called Bedouins (literally "withouts," meaning without nationality or homeland) of northeast Arabia and the Gulf. Others, such as the Kurds, have been divided, sometimes violently, between as many as five states, in each of which they continue to constitute a deeply troubled (and, in the eyes of the dominant nationality, a frequently troublesome) minority.⁴⁰

In North Africa, the Arabs and the Berbers (or Amazaiqs, as they prefer to be called) had for centuries been closely integrated in the context of their distinctive Moorish variety of Islamic civilization. Reacting to the spread of Arab nationalism, particularly in its secular Ba'athist form, to North Africa in the course of the last four or five decades, and encouraged by strong anti-Arab and anti-Islamic sentiments and interests based in the still inflated former colonial power, France, some Berber activists in

Morocco and Algeria developed a distinct nationalism of their own that, in its more extreme forms, has not been content with asserting a Berber identity independent from that of the Arabs (to which, by the logic of ethnic nationalism, they are undoubtedly entitled); it has also tended to be positively hostile to Arabism and, for good measure, to Islamic culture and civilization.

Meanwhile, similar trends evolved in Iran under the secular Pahlavis (1921–1979) and continued until after the Islamic Revolution of 1979. Alongside the dominant Iranian nationalism, nationalist sentiments also developed among such ethnic minorities in Iran as the Kurds, the Turkomans, the Arabs of Khuzistan, and the Baluchis.⁴¹ Iran has, however, continued to survive as a single and united state regardless.

By contrast, ethnic differences, coupled with geographical distances separating what was known as East Pakistan from the then West Pakistan, resulted (with Indian assistance) in the break-up of what had originally been launched as one Islamic state into two separate countries. Within the present Pakistan, as well as in neighboring Afghanistan, tensions and conflicts have continued to characterize relations between various ethnic groups, while religious tension exist between Shi'i and Sunni Muslim factions in Pakistan.

The situation in the Muslim-majority states of Southeast Asia is in many respects quite different from that encountered in either Pakistan or Afghanistan, but the events which led to the secession of Singapore from Malaysia in the mid-sixties, like the prolonged and still on-going conflict between Aceh and Jakarta in Indonesia, echo the kind of tensions between ethnic majorities and minorities that have been witnessed elsewhere in the newly independent Muslim (and non-Muslim) states of Asia, Africa, and the Middle East. Malaysia, however, remains one of the best examples of the continuation into modern times of the centuries-old Islamic tradition of peaceful and fruitful coexistence between peoples of different faiths, cultures, and ethnic origins.

The main conclusion to be drawn from these brief observations is that modern Muslim nation-states have on the whole been more successful in accommodating religious minorities than they have been in dealing with ethnic minorities. This has in large measure been due to the existence of substantial continuities between the traditional and modern values and patterns of behavior in the case of the former, and the fragility or total absence of such continuity where nationalism has been introduced in situations of extreme ethnic and religious diversity.

In certain cases the gulf between majorities and minorities has been rendered much wider and correspondingly more difficult to bridge as a result of the fact that the groups in question are both religious and ethnic minorities. The southern Sudan is a clear case of minority-majority religious and ethnic conflicts. The role of third parties not only in obstructing genuine efforts for the peaceful settlement of the prolonged conflict in the southern Sudan, but also in destabilizing the country and indeed the continent as a whole, has been clearly felt for well over thirty years. Thus, on March 3, 1965, Felix K. Onama, the then minister of internal affairs in Uganda, told the Ugandan Parliament that there was "positive action from certain nations to frustrate, not only the genuine desire of the Government of the Republic of the Sudan, but also to frustrate Uganda, in its attempts to bring the two factions in the Republic of the Sudan together. . . . This is an example of the encouragement of external agents to disrupt the peace of Africa."⁴² More recently, Cornell University professor of government Milton Esman made the same point more explicitly. "Inherent in ethnic conflicts," he said, "is the propensity to attract and involve external actors and foreign interventions. For example, the Israelis assist the southern Sudanese against a common enemy, the Arab-Muslim regime in Khartoum, and India helps the ethnic Bengali revolt in order to dismember their common enemy, Pakistan. . . . Sometimes the participants actively invite sympathetic external intervention in the form of material or diplomatic support to strengthen their competitive position. External intervention," he concludes, "has become a common reality in inter-ethnic conflict, much of it mischievous, cynical and purely self-interested."⁴³

In the course of the fifteen years that have lapsed since Esman recorded his accurate observation, the "mischievous, cynical and purely self-interested" exploitation of interethnic conflicts has been transformed into a singularly lethal weapon of mass destruction and regional instability, which is ruthlessly deployed by outsiders across vast areas of Africa, the Middle East, and Southeast Asia. A current (June 2004) example is an ongoing operation that, according to *New Yorker* magazine, "could further destabilize the entire" Middle East. It relates to activities undertaken by Israeli military and intelligence operatives in Kurdish areas of Iran, Syria, and Iraq in order, among other things, "to create a base in Iran from which they can spy on Iran's suspected nuclear-making facilities." In the words of a former Israeli intelligence officer who is quoted in the article, "Israel has always supported the Kurds in a Machiavellian way. . . . It's

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Realpolitik. By aligning with the Kurds, Israel gains eyes and ears in Iran, Iraq and Syria.⁴⁴

In this kind of situation, it is the human rights of men, women, and children, whether they happen to be rooted in secular philosophies or religious beliefs of whatever kind, that count for very little. What is certain, however, is that human beings continue to be sacrificed not only as a result of conflicting forms of nationalism but also in consequence of relentless exploitation and manipulation by powerful parties and interests both regional and global alike.

THE FEMININE EXPERIENCE IN MUSLIM SOCIETIES: AN OVERVIEW

MUSLIMS HAVE, AMONG other things, been described as "the First Feminists."⁴⁵ Regardless of whether Prophet Muhammad and his Companions would have been flattered by the designation or whether they would have found it merely amusing or simply tautological and therefore banal, it is clear that a genuine appreciation of the radical changes that Islam introduced concerning the rights and status of women (some aspects of which have been mentioned in chapter 2) is very much at the heart of the judgment or description in question. The life experience of women during the Prophet's own lifetime, and for several generations thereafter, would go a long way toward confirming the accuracy and correctness of this description of Muslims as the first feminists.

To begin with, the dignity and human worth of women, not only on earth vis-à-vis men, but also in heaven and in the sight of God, was for the first time formally and unequivocally recognized and declared. God, it is stated in the Qur'an, declares:

As for anyone, be it man or woman, who does righteous deeds, and is a believer withal—him shall we most certainly cause to live a good life; and most certainly shall We grant unto such as these their reward in accordance with the best that they ever did.⁴⁶

And again:

I shall not lose sight of the labour of any of you who labour [in My way], be it man or woman: each of you is an issue of the other.⁴⁷

And in a more detailed and emphatic manner:

Verily for all men and women who have surrendered themselves unto God, and all believing men and believing women, and all truly devout men and truly devout women, and all men and women who are true to their word, and all men and women who are patient in adversity, and all men and women who humble themselves [before God], and all men and women who give in charity, and all self-denying men and self-denying women, and all men and women who are mindful of their chastity, and all men and women who remember God unceasingly: for [all of] them God has readied forgiveness of sins and a mighty reward.⁴⁸

Consistent with the clear and unequivocal affirmation in the Qur'an of their complete equality with men in the eyes of God, women—as has been fully and minutely documented in al-Tabari, al-Bukhari, Ibn Sa'ad, and a host of other classic sources—then actively and unhesitantly participated alongside their menfolk in a wide range of activities: devotional, administrative, commercial, political, juridical, and military.

For example (and in sharp contrast with the many arbitrarily restrictive or even exclusive practices that were subsequently introduced in certain parts of the Muslim world, regardless of what the Qur'an and the Sunna actually taught), women regularly participated in congregational prayers in the main mosque in Madina at all the five prescribed times including, it is worth noting, dawn and evening prayers. The Prophet, always considerate and sensitive to the needs of women and children as well as others, would then shorten the service on hearing the whimper of a baby or a child crying for the attention of its mother.

But the five daily prayers were not limited to ritual acts. They were also occasions on which both women and men could raise issues, including many that would nowadays be regarded as human rights issues, with the Prophet and with his successors in the leadership of the *Umma*. It was on some of these, as well as other occasions, that the Prophet repeatedly pointed out that no woman could be forced to marry a person whom she did not wish to have as a husband. Concerned with the negative effects of the popular fashion to pay large sums of money as dowry on young men's ability to marry, the second caliph, 'Umar ibn al-Khattab (586–644 C.E.), suggested on one such occasion that the difficulty be overcome by putting a ceiling on the amount of the dowry that was to be paid to prospective brides. However, a woman stood up and spoke against the proposed

measure, citing the relevant passage from the Qur'an. 'Umar then had to withdraw his intended proposal by saying—in public of course—that the lady who made the objection was right and that he, the commander of the faithful, was indeed wrong.

It may be mentioned at this juncture that Caliph 'Umar appointed a capable woman called al-Shaffa' Um Sulayman ibn Abi Haithamah to the challenging job of market inspector in Madina. As such, she was responsible for quality control and had to ensure that fair prices were charged and, in general, that transactions that took place in the market were ethically and legally above board. Considering the question of whether women could be appointed to positions of leadership and high public office, Imam Abu Hanifa (699–765 C.E.), the founder of one of the major schools of Islamic *fiqh* and jurisprudence, later ruled that women could be appointed judges but not to more senior posts. Ibn Hazm went further by saying that women could be appointed to any post except that of head of state or caliph. Politics had from the very beginning attracted a number of women, including 'A'isha bint Abu Bakr (d. 767 C.E.), the intelligent, vivacious, and irrepressible young widow of the Prophet, who was vehemently opposed to the fourth caliph, 'Ali ibn Abi Talib (604–661 C.E.), during the tragic civil war that he fought against Mu'awiyah Ibn Abi Sufyan, 'A'isha bint Abu Bakr famously rode her camel into battle against 'Ali's forces—the incident being known ever since as the “battle of the camel.”

The involvement of Muslim women in politics and military campaigns was not then a novelty. It had a long history that went back to the rise of Islam. Women rode into several battles that the Prophet had to fight against his enemies. The roles they played, it is important to note, were not limited to such matters as raising the morale of the fighting men through song and music or nursing the wounded and securing supplies of water and food for them. Several women, notably the celebrated Nasaibah bint Ka'ab and Safiyya bint 'Abd al-Muttalib, took part in the actual fighting as well. The first martyr in Islam was a woman: Sumayyah bint Khubab. Together with her husband and son Yasir, she was savagely tortured but courageously continued to defy and resist her tormentors' cruel efforts to break her will and to induce her to renounce her faith until she breathed her last breath.

Khadijah bint Khuwaylid was a successful business woman. As such, she employed the young Muhammad as manager of her business on the caravan routes to Syria and became his first and, until her death twenty-four years

later, his only wife. She was the first person ever to embrace Islam, and until her death, she staunchly supported her husband through the many and varied vicissitudes that they faced.

Many other Muslim women played prominent roles in the public life of their respective societies and states, and many continue to do so today. The long list of illustrious women includes several colorful personalities, such as Sukayna bint al-Husayn, the beautiful and independent-minded (some would say rebellious) great granddaughter of the Prophet; the indomitable Kharijite fighter Ghazala, whom, according to a famous contemporary poet, the tough and overbearing Umayyad provincial governor, al-Hajjaj Ibn Yusuf, dreaded to meet in battle; the exquisitely spiritual poetess and Sufi saint, Rabi'a al-'Adawiyya of Basra; in Cordoba, the highly sophisticated and coquettish aristocrat, Wallada bint al-Mustakfi (994–1077 C.E.), who has been immortalized by Ibn Zaydun (1003–1071 C.E.) in some of the finest and most deeply moving love poetry ever written in Arabic; and, in Mughal India, Mumtaz Mahal (1592–1630 C.E.), whose resting place, the Taj Mahal, built by her devoted consort, Shah Jahan (1592–1666 C.E.), is the Eastern equivalent in consummate architectural finesse and beauty of al-Hambra in Granada. In the late twentieth and early twenty-first centuries, Sheikh Hasina Wajed and Begum Khaleda Zia of Bangladesh, Benazir Ali Bhutto of Pakistan, Tansu Ciller of Turkey, and Megawati Sukarnoputri of Indonesia immediately come to mind as examples of leading Muslim women of international standing.

The thick curtain of counterrevolutionary darkness, which subsequently began to descend on the *Umma* at large and on the women whom Islam had firmly set on the road to emancipation, first made itself felt within a few decades after the departure of the Prophet. This trend was woven out of a variety of strands: in some cases, sheer ignorance of the teachings of the Qur'an and the Prophet; a conscious desire on the part of certain counterrevolutionary elements to subvert, dilute, or set aside the said teachings; the natural and spontaneous spread across *Dar al-Islam* of numerous pre-Islamic (often distinctly anti-Islamic) traditions with the rapid adoption of Islam by more and more peoples of diverse backgrounds; and the reemergence at the center of the old pre-Islamic Arabian tradition of patriarchy and male chauvinism. So rapid and pervasive was the success of the counterrevolutionary trend that by the time of *Hujjat al-Islam* Abu Hamid al-Ghazali (b. 1058 C.E., d. 1111 C.E.), almost each and every principle that had been established by the Qur'an and the

Prophet—confirming the rights and status of women as free and responsible agents who are endowed with human dignity on an equal footing with men and therefore entitled to play important roles in public life as well as manage their own personal affairs—had been to a greater or lesser extent negated. This was done not only by the ignorant but, almost incredibly, by even some of the most brilliant and highly sophisticated minds in the history of Islam, of humankind, and of the world at large, including *Hujjat al-Islam* himself.

Thus, using spurious and weak *hadiths* (sayings attributed to the Prophet) al-Ghazali, writing in his widely influential *Ihya' 'Ulum al-Din*, or *The Revivification of Religious Sciences*, incredibly posits first that women, far from being endowed with human dignity as the Qur'an clearly and unequivocally states, are actually enveloped in some ten 'a'was (indecencies that should be literally as well as figuratively covered up): one of which, he says, will be covered by her husband when a woman is married, the remaining nine being coverable only by death and subsequent interment into the earth. Second, al-Ghazali wrote that a woman would be closest to her Lord—Creator when she is confined to the innermost part of her home (*fi qa'r baytiha*); that praying at home is better for her than praying in a mosque; and that praying within the innermost recesses of her home is better than praying elsewhere in her home. Third, she should be utterly obedient to her husband, realizing that if he were covered from head to toe in ulcers and puss and she licked him clean, she would not have shown gratitude enough to him.⁴⁹

The making and circulation throughout the Muslim world of such obviously and, to say the least, utterly baseless and shocking notions in the guise of scholarship and the name of piety, incredible as it was, in fact became an industry that was much favored and encouraged by male chauvinists throughout *Dar al-Islam* to the detriment both of women and of Islamic civilization in its entirety.

Symptoms of the rapidly spreading trend included the curtailment or complete elimination of women's participation in the public life of Muslim societies and the transformation of *hijab* from an injunction whereby both men and women were urged in the Qur'an to "lower their gaze and be mindful of their chastity." In the Qur'an, women were admonished "not to display their charms [in public] beyond what may [decently] be apparent thereof [and] hence to draw their head-coverings over their bosoms,"⁵⁰ which was transformed to a purdah-system from which men are completely exempt while women are to be shrouded from head to ankles

in gloomy tentlike wrappings through which only one eye, if any, shows. Noteworthy was the imposition, in the name of Islam, of such a biased penal system (*hudud*) that Amina Lawal of Nigeria, as widely reported in the international media in the course of the last two years, was found guilty of *zina* (fornication) on the evidence of her having given birth to a child out of wedlock and thus sentenced to death, while her partner (former husband) was allowed to go free because there were no four witnesses to prove the alleged guilt in court.

Although the process of unprecedented liberation that women enjoyed during the early development of Islam was reversed especially during the centuries of general decline of Islamic civilization, the overall picture was at no time one of complete defeat for women. Some bright spots continued to shine from time to time. For, apart from initiatives that certain gifted women of strong character continued to take, often as wives or even concubines of kings and sultans, many traditional Muslim scholars continued to resist the encroachment on women's rights and to uphold the teachings enshrined in the Qur'an as well as the *Sunnah*, as opposed to degrading customs and spurious sayings wrongly attributed to the Prophet. Thus, Shehu (Shaykh) Usman dan Fodio (1754–1817 C.E.), the renowned West African scholar, reformer, and founder of the Sokoto Caliphate in what is now Northern Nigeria and parts of Niger, wrote a remarkable book, *Irshad al-Ikhwan Ila Ahkam Khuruj al-Niswan*, in which he interestingly intervened in what was then a raging debate in the region about women and their obligations. One side held that women should remain confined to their homes in all circumstances; the other held that women had a right to go out in search of work, learning, and so forth. Shehu argued that extremists who rigidly held to either of these two opposed views in fact failed to follow the just and moderate position always favored by Islam and the *shari'a*, which he urges all to follow: "*fa aradtu an ansaha al-jami' . . . wa dhalika li yazhara'l haqq . . . wa yarji'a kullu man mala ila tariq'il tafrit wa'l ifrat ila tariq al-haq al-mutawassit*." By critically reviewing an impressive number of classics of *fiqh* and jurisprudence, Shehu then proceeded to show that in accordance with the *shari'a*, women have a right, indeed a duty, to leave their homes in pursuit of legitimate purposes, whether of a purely worldly nature, such as earning an honest living, or a primarily religious nature, such as seeking education and instruction in Islam. Accordingly, Shehu argued, it is a man's duty, if he is a scholar, to teach his wife himself; otherwise he has an obligation to arrange for a qualified teacher to provide her with the necessary education

at home. Alternatively, Shehu also asserted that a wife has a right to seek education wherever it is available even without her husband's consent. In that situation, it is the *shar'i*, obligation of those who are in authority to force the husband to facilitate a wife's education—just as he would be forced to pay maintenance for her in case of divorce: "*fa'l yu'allimha aw y'adhan laha fi'l khuruj litata'llam. Wa in aba an takhruj fa'takhruj wa la shay'a'alayha wa la takienu'asiyatan wa 'ala al-hakim an yujbirahu 'ala tahsil al-'ilm laha ka'l nafaqah.*"⁵¹

At the other end of the Muslim world, Chinese Muslim women in Hunan, Xinjiang, and elsewhere developed the unique system of women's mosques, an institution through which they sought to assert their status as independent and equal believers alongside men and also struggled under Mao Tse-Tung and his successors—especially during the ravages of the Cultural Revolution—to maintain the faith and cultural identity of the community in the face of both militant atheism and assimilationist policies.⁵²

Meanwhile, many women throughout the Muslim world distinguished themselves as freedom fighters in resistance and national liberation struggles against the invasion of their homelands by foreign forces, a recurrent circumstance in the history of Muslim lands since 1500. Some of these, like Mehaira bint 'Abboud and Rabha al-Kinaniyya in nineteenth-century Sudan, and Jamila Bu-Hreid in the Algerian war of independence in the 1950s and 1960s, attained the status of national icons and folk heroines. A similar situation has evolved more recently in connection with the 1979 Islamic revolution in Iran, where the traditional *hijab*, far from preventing women from playing significant roles in the struggles at hand, often proved to be an asset.

It may be worth adding in this connection that many women who had previously distinguished themselves as Westernized journalists and film stars and in other professions, in Egypt, Turkey, Malaysia, and elsewhere in the Muslim world (as well as among the many American and European women who have embraced Islam in the course of the last three or four decades) have recently taken up *hijab*, or headscarves; the gesture is often regarded as an expression of personal conviction and autonomy and a symbol of genuine liberation. In Malaysia, in many ways the most advanced Muslim country today, it is a common daily practice for tens of thousands of Muslim women, wearing their characteristic colorful clothes and headscarves, to drive in cars or on motorcycles to and from their various workplaces. Others, including the many non-Muslim Malaysians, of

course do not don the attire but remain generally observant of the commonly accepted standards of behavior. Contrary to the impassioned arguments and debates that the wearing of headscarves seems to generate in some other Muslim-majority states, as well as in certain non-Muslim countries such as France, however, *hijab*, whatever form it may take, is hardly a contentious issue in Malaysia. The heated debates on the subject that often rage elsewhere seem to reflect deeper concerns of which the *hijab* is regarded as a symbol. For some, especially in the West and among Westernized or semi-Westernized Muslims, it is undoubtedly a symbol of oppression, backwardness, and, in the post-9/11 era, possibly even of terrorism. For the Muslim women directly concerned as well as for their families and friends and for Muslims around the world, however, nothing could be further from the truth. For them, the wearing of headscarves, apart from being a religious obligation (it may, for practical purposes be regarded as the equivalent of wearing crosses, skull-caps, and turbans by Christians, Jews, and Sikhs, respectively), is a simple and harmless expression of common decency, good taste, and sociocultural identity. So long as symbols of this kind are treated with respect and on a basis of equality with others, there is no reason for trouble or disaffection. As someone for whom the plurality of faiths and the diversity of lifestyles are natural concomitants of worldly existence and ought to be joyfully celebrated, the passion and intensity that often verges on hysteria with which the subject is frequently debated seems to be quite unnecessary, if not totally misplaced. There are, after all, several other issues concerning women that are of much greater importance and deserve to be attended to as a matter of priority.

First among these issues are some that are literally matters of life and death. Indeed, according to Amnesty International reporting on the findings of an international survey of fifty nations around the globe, "violence against women is the greatest human rights scandal of our times."⁵³ At least one out of every three women has been beaten, coerced into sex, or otherwise abused in her lifetime.⁵⁴ Substantial evidence gathered and analyzed by Amnesty International does not indicate that the incidence of violence against women in Muslim countries today is less than that encountered elsewhere in the world, although some of the underlying causes that lead to violence and the forms it takes in these countries do differ from patterns that prevail elsewhere. Thus, a study that was carried out in several provinces in east and southeast Turkey found that, contrary to both Qur'anic and prophetic teachings and standards set by

contemporary international law, 45.7 percent of women were not consulted about their choice of marriage partners and 50.8 percent were married without their consent.⁵⁵ Meanwhile, in Turkey, Jordan, and elsewhere in the Muslim world, so-called honor killings take place, often with the apparent consent or indifference of local communities, police officers, and even judges.⁵⁶ As Shaykh Muhammad al-Ghazali has pointed out, this practice constitutes a doubly heinous crime, for whereas the male's sin is traditionally forgiven or overlooked, his female partner has to pay for it with her life.⁵⁷

In May 2004, Reuters News Service incredibly reported from Islamabad that the three-man local jury in a small Pakistani village actually authorized an influential landowner called Ghaffar to rape the sister and sister-in-law of a man whom he accused of an illicit relationship with his daughter. The council members, all of them landlords, ruled that Ghaffar could avenge his lost honor by having sex with the sister and sister-in-law of the farmer.⁵⁸ Meanwhile, gang raping of women has been committed by certain criminal elements elsewhere in Pakistan in order to humiliate the men of rival families or groups.

A particularly vicious form of violence that has traditionally been inflicted on girls and young women in particular is female genital mutilation (FGM). Widely practiced among Christians, Muslims, and adherents of indigenous African religions in Egypt, Sudan, Uganda, Kenya, Somalia, and Eritrea, among others, it is also practiced in the Yemen, Oman, and Southeast Asia. There are three types of FGM. One commonly but inaccurately described as "Sunni circumcision" consists of the removal of the clitoral hood; it is thus comparable to the circumcision of boys. Another type involves the amputation, in part or whole, of the clitoris, sometimes together with the adjacent parts of the minor, or inner, lips (labia minora). The third and most drastic form is known as "Pharaonic circumcision." This involves the removal of the clitoris, the minor lips, and portions of the major, or outer, lips. The lifelong physical and psychological damage—assuming that death is averted—is enormous.

A particularly tragic aspect of FGM as far as those Muslim communities in which it is practiced are concerned is that, especially in its so-called Sunni form, it is often, though wrongly, thought to be a requirement of the faith or, at the very least, something commendable for Muslims. As a number of outstanding scholars, including the renowned former rector of al-Azhar Shaykh Mahmud Shaltut, have repeatedly pointed out, however, there is in fact no basis whatsoever for female circumcision in Islam: "*laysa*

fi'l khitani khabarun yurja'u ilayhi wa la sunnatun tuttaba'"⁵⁹ This aside, some die-hard partisans of FGM try to justify the practice by arguing that by reducing sexual excitability, female circumcision helps women to guard their modesty and thus steer clear of sexual deviations. As Shaykh Shaltut has again pointed out, however, daily observation clearly shows that there are many incidents of deviation among those who are circumcised, and that integrity and good character (whether in men or women) is a matter, first and foremost, of upbringing and education, not of physical mutilation. In Shaltut's own succinct words, "there is nothing whatsoever in *shari'a*, ethics, or medicine to justify female circumcision": "*la shara' n, wa la khulugan, wa la tibban*."⁶⁰

In order to combat this heinous and completely unnecessary practice (which, incidentally, is totally unknown in large parts of the Arab and Muslim world), some have hastily sought to use the prohibitive force of the law. Experience has repeatedly shown, however, that legal prohibition, far from being effective in mitigating the practice, may in fact lead to substantial increases in clandestine operations. Although thoughtful legislation may indeed have a role to play in this regard, it should be borne in mind that in the long run, education, including especially bona fide religious education, is much more likely to be effective in combating FGM and other socially sanctioned forms of criminal conduct, honor killings included.

Muslim women have long had to endure many and varied forms of oppression and dispossession, oftentimes as a result of deliberate distortion or even total disregard of the liberating teachings of the Qur'an and the Prophet. In concluding this brief review of the feminine experience in Islam, it should be pointed out that despite this, Muslim women have in recent decades been able not only to regain (though at an exceedingly slow pace)⁶¹ many of the personal and social rights that the Qur'an guaranteed them centuries ago, but also to make real progress in a wide range of other fields from which they had been arbitrarily squeezed out, including political leadership. This is a trend that is likely to grow with the passage of time.

DECLINE, COLONIAL DOMINATION, AND THE QUEST FOR REVIVAL AND RECONSTRUCTION

Verily, We did offer the trust [of reason and volition] to the heavens and the earth, and the mountains, but they refused to bear it because they were afraid of it. Yet man took it up—for, verily, he has always been prone to be most wicked, most foolish.

Qur'an 33:72

Do men think that on their [mere] saying, "We have attained to faith" they will be left to themselves, and will not be put to a test? . . . most certainly will God mark out those who prove themselves true, and most certainly will He mark out those who are lying.

Qur'an 29:2-3

The vanquished can always be observed to imitate the victor in the use and style of his dress, mounts, weapons, and, indeed, in everything.

*Ibn Khaldun,
in the Muqaddimah*

FOR SEVERAL CENTURIES, ISLAMIC civilization was the leading civilization in the world. Muslims were not only in control of their own affairs and homelands, but also played important roles in determining developments in much of the world beyond the vast

and apparently ever-expanding territories of what was then generally described as *Dar al-Islam*, or Pax Islamica.¹

However, a number of factors and developments, both internal and external, gradually but inexorably resulted in the radical transformation of the situation in terms of culture, science, and civilization as well as economic, sociopolitical, military, and strategic power. The Muslim world, especially from about the end of the fifteenth century on, was gradually but surely forced by the rising new powers of Europe ultimately to succumb to colonial domination at the hands of various Western powers. Five centuries of colonial oppression and exploitation inevitably resulted in the devastation and humiliation of successive generations of Muslim peoples from the Atlantic coast of West Africa to China and the Philippines, from the Balkans and central Asia to equatorial Africa, and also in serious and far-reaching forms of institutional disruption and sociocultural dislocation.²

The *shari'a*, the common law of Muslims down through the ages and the sociocultural expression and linchpin of the entire Muslim way of life everywhere, together with the whole structure of traditional educational, juridical, administrative, and welfare institutions, which were necessarily rooted in and sustained by the *shari'a*, were all profoundly affected and, in many cases, systematically destroyed and completely shattered. Not surprisingly, therefore, revival, reform, and reconstruction, themes of perennial interest and importance throughout Islamic history, emerged as issues of pivotal importance in the lives of Muslim individuals and communities around the globe, especially from the eighteenth century until this present day and age.³ Questions of human rights, as might have been expected, have inevitably been, and remain, of central importance throughout. A closer look at the principal stages of these processes and the various factors that have been operative therein is now in order.

DECLINE AND DECAY: SOME INTERNAL FACTORS

A GROUP OF far-reaching events and problems that may be mentioned at the outset relate to the evolution of governance in the Muslim world. As is well known, it was agreed shortly after the death of the Prophet (*pbuh*) and before his body was interred that Abu Bakr al-Siddiq, his closest companion and most senior supporter, be appointed *khalifa*, or caliph, that is "successor" to the Prophet, not in his capacity as prophet of course,

but as leader of the *Umma* and defender of the faith. It turned out in due course that Abu Bakr was the first of four *Rashidun*—the Rightly Guided—caliphs. The other three were 'Umar Ibn al-Khattab, 'Uthman Ibn 'Affan and 'Ali Ibn Abi Talib. Their era (632–661 C.E.) was subsequently edited as such, in spite of some serious problems that cropped up about halfway into 'Uthman's caliphate through that of 'Ali, and tragically ended in the assassination of the last two caliphs and the eruption of the first civil war in the history of Islam. This was in part due to the personal piety of the four *Rashidun*, the simplicity and transparency of their style of governance, and their commitment and adherence to the principle, or ideal, of *shura* (consultation) and, as far as possible, of consensus, instead of succumbing to the temptations of power or resorting to the illegitimate use of force against critics and opponents.

From the time of the Umayyads (661–750 C.E.) onward, the caliphate was transformed into a dynastic and monarchic system of government that not only institutionalized the hereditary monarchic principle instead of the divinely ordained and popular *shura*, but also proved to be shockingly unscrupulous in the use of force and shedding of blood (including that of Imam Hussain Ibn 'Ali, the Prophet's grandson). Caliphs even dared to manipulate the teachings of the faith (especially with regard to the theological debate about predestination versus free will) in order to bestow a veneer of legitimacy on tyranny and oppression.

The overthrow and replacement of the Umayyads by their rivals and critics, the 'Abbasids (750–1258 C.E.), did not result in the restoration of *shura*. On the contrary, the generally oppressive and tyrannical monarchic style of governance was maintained, and under the then extensively influential Persian viziers and secretaries (or *kuttab*), it was built into a highly authoritarian and ostentatious imperial system on the model of pre-Islamic Iranian monarchies and empires. At a later stage, yet another twist was introduced into the epic as a result of the emergence of warlords who were not content with being provincial governors but, designating themselves kings and sultans, took real power at the center, Baghdad, thereby reducing caliphs (especially under the Buyids) to the status of figureheads.

Concerned about avoiding conflict and saving the unity of the *Umma*, eminent scholar-jurists, prominent among whom was al-Mawardi (972–1058 C.E.), author of *Al-Ahkam al-Sultaniyyah* ("Ordinances of Government"), then devised "a sort of concordat," whereby the caliph recognized the usurper's control of policy and civil administration in return for

the recognition by the usurper of the caliph's dignity and role as head of religious affairs.⁴

By the time of al-Ghazali, *imarat al-istila'* (amirate by seizure) had become a well-established tradition. Following in the footsteps of al-Mawardi but going further, al-Ghazali proceeded by first of all recognizing the situation for what it actually was: an obviously flawed condition that only tenuously reflected the values and principles of the *shari'a*. Not surprisingly, he considered *usul al-fiqh* (jurisprudence) an anomalous or extraordinary situation in which necessity therefore rendered legitimate and acceptable judgments and practices that would otherwise be regarded as illegitimate and unacceptable: *al-darurat tubihu al-mahzurat*.⁵ Short of revolution, which, like the English philosopher Thomas Hobbes several centuries later, al-Ghazali would not entertain for fear that it would unleash unpredictable and uncontrollable forces of destruction that would undermine the entire fabric of both society and the state, the situation was simply not capable of admitting or making possible a neat or perfect solution. Only a contrived series of compromises could be realistically considered. Al-Ghazali pointed out that in theory accession to the caliphate could be effected through any of three possible ways: designation by the Prophet, designation by a reigning caliph, or through election by a militarily and politically dominant person or group of persons to whom obedience is rendered by the majority of the populace.⁶ It is a remarkable fact, no doubt reflective of the desperately contentious circumstances in which he lived, that al-Ghazali did not even mention *shura*, whereby rulers could be chosen by the ruled as a fourth theoretically possible way. However, al-Ghazali boldly stated that in practice, "*al-wilayatu al-an la tatba'u illa al-shawkah—fa man bay'a'ahu sahibu al-shawkah fa huwa al-khalifah*,"⁷ or "accession [to the caliphate] nowadays is entirely dependent upon military might, for, that person [from among the 'Abbasids] to whom allegiance is professed by the holder of military might, is caliph."

As if engaged in a desperate search for some way by which a veneer of legitimacy could be shed on the above described procedures and processes, al-Ghazali then went on to say that, "provided the independent wielder of military might in question professes allegiance to the caliph [and demonstrates his allegiance] by seeing to it that the caliph's name is mentioned in the *khutba* [i.e., sermon given in congregational prayers on Fridays and on the occasion of 'Id, or Bairam] and on the coinage: the said [warlord] should be recognized as a [legitimate] sultan whose orders

and judgments are to be followed and implemented throughout the realm."⁸ In al-Ghazali's own words, "*wa man istabadda bi'l-shawkah wa huwa muti'un li'l-khalifah fi asl al-khutbah, fa huwa sultanun najidhu'l hukm wa'l qada' fi aq-tar al-ard*."

Following the extinction of the 'Abbasid caliphate by the Mongols in 1258 and the establishment in Cairo by the Mamluks thereafter of the nominal or "shadow caliphate," the way was opened for the final logical step whereby rights acquired by force were declared legitimate. This was done by a chief *qadi* of Cairo under the Mamluks, Ibn Jama'a (1241–1333 C.E.), who stated in *Tahrir al-Ahkam*, "When the Imama is thus contractually assumed by one person by means of force and military supremacy, and thereafter there arises another who overcomes the first by his might and his armies, then the first is deposed and the second becomes Imam, for the reasons of the well-being and unity of the Muslims."⁹ To buttress his argument, Ibn Jama'a then approvingly cites ibn 'Umar's proverbial phrase, "*Nahnu ma'a man ghalab*," or "we are with whomever happens to emerge victorious!"¹⁰ Thus, *shura* was openly and uncereemoniously dispensed with, while the principle that might is right was formally enshrined as official doctrine.

A second major pillar (after governance) on which traditional Muslim societies stood was knowledge and its custodians, the '*ulama* (literally, people of knowledge). Traditionally regarded in Muslim societies as *warathatu'l al-anbiya'* (heirs to the prophets), the '*ulama* were not expected to be mere purveyors of knowledge as information. Rather, as custodians of the *shari'a* they were looked up to as leaders of society, tutors of rulers and statesmen, and teachers, by words and personal example, of the people at large. Although many outstanding and brilliant scholars of good character and sense of commitment had previously adorned all corners of *Dar al-Islam*, al-Ghazali left no doubt that he was grieved to find that most of the '*ulama* of his time were utter failures. '*Ulama al-su* (evil scholars), al-Ghazali bitterly explained, had all too frequently failed, individually, by becoming too demonstrably arrogant, avaricious, egotistic, and downright hypocritical. They also failed, collectively, first, by not fulfilling their duties as responsible leaders and constructive critics of society, thus commanding right and forbidding wrong. Second, they failed by becoming seekers of power, wealth, and position, who, as such, and in order to attain their unworthy aims moreover, allowed themselves to become sycophants, flatterers, and boon friends of kings and sultans instead of giving them much-needed advice.¹¹ Al-Ghazali summed up the whole

tragic situation by observing that when the 'ulama succumb to such worldly temptations as love of wealth and power, they become corrupt. Thus ensnared or seduced by the glitter of worldly pleasures, they are no longer able to fulfill their prescribed duty of commanding right and forbidding wrong even among the criminal elements of society, let alone kings and dignitaries. These in turn abandon themselves to still greater corruption. Following the example of their kings and rulers, the people at large then proceed along the same slippery slope.¹²

As might have been expected in the circumstances, it was not only scholars who slipped and failed. Scholarship itself had concurrently begun to decline and degenerate. Among the most important factors that were involved, both as cause and effect, in the decline of traditional Islamic civilization in general and of legal thought and *fiqh* in particular was the ill-fated "closing of the door" of *ijihad* (creative intellectual effort) and the consequent prevalence of *taqlid* (imitation) instead. This occurred early in the tenth century. Instead of continuing the hitherto familiar processes of systematic research, open-minded debate, and the constant updating and readjustment of theories and views in the light of scholarly criticism, practical experience, and changing circumstances, Muslim societies from then onward to the nineteenth century seem to have generally agreed to follow one or another of the existing schools of *fiqh*. Some went even further and, as Ahmad Baba al-Tunbukti related in *Nayl al-Ibtihaj*, proceeded to confine themselves to the imitation not only of this or that imam or founder of the chosen school (or *madhhab*) of *fiqh*, but of a particular interpreter of the said *madhhab* (for instance Khalil among the Malikis) in preference over other interpreters of the same *madhhab*.¹³ In this atmosphere, *ijihad* became anathema and *taqlid* a binding doctrine, if not a dogma. This occurred not only in *fiqh*, which, of course, had a major impact and pivotal role in the intellectual as well as the social life of Muslims, but in all aspects of human endeavor.

Since growth and development are (by definition, and as amply demonstrated in practice by the earlier and successful experience of Muslim societies themselves) the natural fruits of creativity and dynamism, it is therefore not surprising that the jettisoning of *ijihad* and the prevalence of *taqlid* necessarily led to the rigidity and loss of vigor of *fiqh* and thought in general and to the corruption and decay of the whole edifice of traditional Islamic civilization. Thus, the Muslim world entered a new phase in its development during which it was characterized by cultural and intellectual stagnation, social decay, and political weakness, oppression,

and disintegration. In the parlance of the late Algerian thinker, Malik Bin Nabi, the Muslim world was thus rendered ripe for colonization.

This coincided with the rise of modern Europe and the beginning of the European discovery of the rest of the world. Perhaps best symbolized by the arrival of Vasco de Gama at Calicut in southwest India in May 1498, this new or modern age was one in which the weakened and numbed Muslim world was gradually but progressively dominated by the rising European powers.

COLONIAL DOMINATION AND THE ACCELERATION OF SOCIOPOLITICAL DISINTEGRATION

GATHERING MOMENTUM FROM the sixteenth and seventeenth centuries onward, the process of colonial domination of *Dar al-Islam* resulted by the end of the nineteenth and early decades of the twentieth centuries in the Western occupation of the entire Muslim world, from the Atlantic coast of West Africa to China and the Philippines in the east, from the Balkans, the Caucasus, and central Asia in the north to equatorial Africa in the south.

Some of the most oppressive colonial policies that Muslim peoples experienced under the yoke of modern Western colonial domination were those imposed on the Muslims of the Crimea, the Caucasus, and central Asia, first by tsarist Russia; subsequently and even more drastically, by the Communist rulers of the defunct Soviet Union; and since the fall of the Marxist-Leninist regime, by the rulers of the Russian Republic led by Boris Yeltsin and his successor, Vladimir Putin.

Beginning in the sixteenth century when Ivan the Terrible (1530-1584) occupied the Kazan khanate in 1552, Russian imperialist hegemony continued its inexorable expansion during the following three centuries in a southerly direction until it reached the foothills of the Himalayas, and eastward as far as Siberia. Claiming that its concerns were "to provide security and civilization,"¹⁴ tsarist Russia was in fact fully engaged in the exploitation and expropriation of the agricultural and mineral resources of its colonies as well as in the Russification and the forceful conversion of their inhabitants to Orthodox Christianity. Resistance movements, often led by 'ulama, were mercilessly crushed, and through the use of superior armaments, many thousands of men, women, and children were killed. Islamic culture in general suffered a great deal, but the Russians did not

directly interfere with the *shari'a* courts because the courts were thought to represent a decaying culture that was bound to disappear by itself.¹⁵ Interference was therefore regarded as unnecessary.

The situation was radically transformed after the Bolshevik Revolution of 1917. As Marxist-Leninists, the Bolsheviks were convinced that religion is the opium of the people and therefore a danger to be fought by all means possible with a view to hastening what they believed was its inevitable disappearance. Accordingly, the first seventy years of Soviet power saw "a sustained offensive against religion on a scale unprecedented in history."¹⁶

For a while immediately after the revolution, Islam was given a reprieve from the rigors of ostracism and persecution at the hands of militant atheism. The reason behind the reprieve was that Lenin had then tried to win the support of all those whom the tsarist regime had oppressed, including the Muslim inhabitants of the former empire.¹⁷ By the early twenties, however, anti-Islamic propaganda in the form of hostile publications had appeared. By 1928, all *shari'a* courts in Uzbekistan had been closed down.¹⁸ In the course of the decade from 1929 to 1939, 14,000 mosques were closed in central Asia; 6,000 in the Volga-Ural area; 4,000 in northern Caucasia; and 1,000 in Crimea. *Madrasas* were closed down, while "societies of the godless" were established to promote atheism and the Roman (subsequently Cyrillic) script introduced instead of the modified Arabic script that had been used for centuries before, thus cutting the young off from their spiritual and cultural roots.¹⁹

Resistance movements were ruthlessly suppressed in the Soviet Union. During "the years of liquidation" between 1936 and 1938, for instance, some six to seven thousand *'ulama* and intellectuals from the Volga-Ural region alone were arrested and sent to Siberia or jailed elsewhere. Similar events involving the killing of many *muftis*, mullahs, and other intellectuals were reported from other places. The Tatars of the Crimea, having been accused of collaboration with the Germans during World War II, were deported en masse to Siberia. Meanwhile, elaborate hierarchical organizations, usually manned by collaborationist *'ulama* or mullahs, and firmly harnessed by Communist Party members and Soviet government officials, were set up for controlling the Muslim population of the Soviet Union.

Unlike the Soviet Union, Western European colonial administrators, though they were by no means sympathetic to Muslims, were not driven

by militant atheism, which in the case of the Soviet Union (as of other Communist regimes, whether in the Far East, Eastern Europe, or the Balkans)²⁰ had assumed the form of a fanatical antireligious religion. Instead they invariably encouraged the Christianization of the indigenous peoples, including followers of the Oriental Christian churches, while concentrating their efforts on the economic exploitation of their various colonies and the political and cultural domination of the inhabitants.²¹

The methods they used in order to suppress resistance movements and so as to enable settlers to establish themselves in their respective colonies were no less savage than those that tsarist Russia and the Soviet Union used. Though administrative styles varied, the ultimate consequences for the Muslim peoples concerned (their schools, law courts, properties, languages, faith, and values) were very much the same.

The French, whose colonial policies were based on the premises of assimilation and centralization, perhaps went further than other imperial powers to destroy the sociocultural and legal institutions of their colonial subjects with a view to replacing them with Western transplants. Thus, having established themselves in Algeria (from 1830 on), they gradually marginalized the Arabic language of the people while doing everything possible to establish French as the main language instead. By taking over the *hubus* (or *awqaf*, endowment) on which traditional centers of Islamic learning (*zawiya*s, *kuttabs*, and *madrasas*) depended for financial sustenance, the French ensured the death of these institutions and of the Islamic thought and values for which they stood. In the meantime, they introduced French legal codes and court systems, without the values of justice and equality that inspired them in France. Instead, they imposed and maintained the "indigent," which has rightly been described as "a discriminatory system, which disregarded French common law, and surrounded the native Algerians with a network of restrictions, fines and prison sentences."²² These, it has been further noted "were often very severe, and were remitted only at the discretion of the administration officials, who in the mixed communes exercised the powers of judges. This iron regime existed also in the assize courts and the criminal tribunals, where the French magistrates judged harshly, and the juries were entirely French."²³

The attitudes and policies of British colonial administrators, acting first on behalf of the East India Company and later of the British Crown in India, were in some important respects quite different from those of the French in their various colonies. The company required employees to

"remain mindful of two broad goals: first to extract economic surplus, in the form of revenue, from the agrarian economy, and second, to maintain effective political control with minimal involvement."²⁴ In pursuing these objectives, the administrators of both the company and the Indian Raj found it convenient, especially during the earlier days of British rule in India, to follow "the contours of pre-colonial political systems, including law"²⁵ and to co-opt indigenous intermediaries for this purpose while keeping their own military and police powers in reserve.²⁶ Accordingly the administration of justice, both civil and criminal, remained as it had been under the Mughals.²⁷ Law officers were mostly Muslims, and the criminal law was Muslim. In civil matters, the Mughal practice of applying Islamic law to Muslims and Hindu law to Hindus was followed.²⁸ To facilitate operation of the system, the Muslim practice of applying the laws in question in accordance with the opinions of *maulvis* and *pandits* attached to courts was also continued.²⁹ In 1772 it was formally ruled that "in all suits regarding inheritance, succession, marriage and caste and other usages or institutions, the laws of the Koran with respect to Mohamedans, and those of the Shaster with respect to Gentoos (Hindus) shall be invariably adhered to."³⁰ Not surprising in this situation, two classics of Islamic law that were highly regarded under the Mughals continued to enjoy great esteem under the raj, especially in the courts and among the more scholarly administrators: *al-Hidaya*, a twelfth-century text that primarily relied upon Abu Yusuf and al-Shaybani, the renowned pupils of Imam Abu Hanifa, and *Fatawa Alamgiri*, which had been commissioned by the Mughal sultan Aurangzeb.³¹

With the passage of time, a wide variety of Anglicizing trends inevitably began to set in, the result being the gradual emergence of the so-called Anglo-Muhammadan law, a hybrid structure that in due course became very influential not only in British India, but also in such far-flung British-controlled territories as Malaysia, Zanzibar, Sudan, and Nigeria. The Anglicizing trends in question were in essence inherent in the 1772 doctrine that where indigenous laws seemed to provide no rule, the matter should be decided in accordance with the Roman law formula of "justice, equity, and good conscience," which by 1887 was held "to mean the rules of English law if found applicable to society and circumstances."³² As time went on, administrators became less hesitant to prohibit practices that they felt were offensive. In the course of the 1860s, Islamic criminal law and procedure were replaced entirely by

British-based rules.³³ "By 1875, new colonial codes had displaced the Anglo-Muhammadan law in all subjects except family law and certain property transactions."³⁴

Another source of legislation and legal change became particularly prominent during the latter half of the nineteenth century, namely custom.³⁵ From the early 1850s and especially after the Punjab Laws Act of 1872, customary practices with regard to the collection of taxes were more carefully observed. A major problem that attended this trend was the fact that in practice, as it has rightly been noted, "custom was seldom fixed and permanent."³⁶ Such considerations notwithstanding, however, Anglo-Muhammadan law, by the turn of the century, had already undergone important changes, both as a result of the Anglicizing trends alluded to above and in consequence of the progressive incorporation in the law of customary practices throughout British India.

Customs and customary practices (or '*adat*'), already well-established in the traditional system in precolonial days, played a more important role and assumed considerably greater significance in the Indonesian archipelago under Dutch colonial rule. Thus in Java, courts had been established long before the arrival of the Dutch, but they "applied mixed rules from Islamic law and local custom."³⁷ The two were not infrequently in conflict and the people, both the rulers and the ruled, were often divided over the issue.

Until the late nineteenth century, the predominant Dutch view of the situation was that Indonesian law was "basically Islamic."³⁸ In case of conflict between Islam and '*adat*' anywhere in Indonesia, however, "the Dutch inevitably took the side of local '*adat*', that is, the essentially pre- and sometimes anti-Islamic local social authority, against the universalist claims of Islamic leaders."³⁹ From the 1830s on, Islamic courts in Java were subordinate to the colonial *landraden*. These alone were empowered to issue orders to execute contested decisions.⁴⁰

Matters worsened when the Dutch colonial authorities reorganized the courts in 1882. For one thing, they were then called *priesterraden* (priests' courts), which of course they were not. But although the misconception was powerfully exposed by the famous Islamic scholar and advisor to the colonial administration, C. Snouck Hurgronje, the misnomer persisted even in Javanese, in which the term *raad agama* (religious courts) has reportedly continued to be used for decades after independence.⁴¹ More important is the fact that this reorganization, allegedly enacted on the

principle of noninterference with religion, did not provide either for the education and training of those who were to staff the courts or for their payment. The inevitable consequences were low standards and corruption. Not surprisingly, therefore, the Islamic judiciary in Java, unlike other Islamic countries, did not attract much support from the Islamic modernists, whereas the low-grade judges were positively disliked, or even despised, "from a generalized antagonism to Islam"⁴² by both the Westernized intelligentsia and the aristocratic-bureaucratic Javanese gentry (or *prijaji*). These groups naturally allied themselves with the colonial administration throughout the long drawn-out struggle between Islamic *shari'a* law and *'adat* law, which continued to be a central issue in Indonesian social and political life until well after the collapse of the Dutch, the Japanese occupation, and the subsequent independence of the country.

Ironically, the conflict over laws (and the implied questions of political legitimacy and ideology) became particularly acute in the wake of efforts initiated by the colonial administration in the twenties and thirties with a view to reforming the court system that had been established in 1882. The inappropriate label of *priesteraad* was then dropped in favor of the more acceptable name of *penghulu* courts.⁴³ It was further decided that judges and other court staff would receive regular salaries. Also, an Islamic court of appeals (*Mahkamah Islam Tinggi*) was created. It was also decided that competence over inheritance disputes be removed from the *shari'a* courts to the *landraden*. As may be expected, this gave rise to a bitter and prolonged dispute. However, all protestations were brushed aside by the Dutch colonial administration, which enjoyed the support of the Westernized intelligentsia and the *prijaji*.

The situation in Indonesia was in sharp contrast to the situation in Morocco, where the French colonial administration had in May 1930 introduced comparable legislation to that promulgated by the Dutch in Indonesia about the same time and with similar objectives in mind. The Berber Dahir, as the French colonial instrument was called, put under French jurisdiction "the repression of crimes committed in Berber territory whatever the status of the person who commits the crime."⁴⁴ For the nationalists throughout the country, this was an open attack on both Arabism and Islam. It threatened to break the unity of the kingdom as well as the nation. The sultan, the *'ulama* of the Qarawiyyin university mosque, as well as the middle classes and their Western-educated leaders were all united in the nationwide campaign against the Berber Dahir,

both at home and abroad, including in France, where certain elements of the left also gave their support to the Moroccan resistance movement.⁴⁵ In the circumstances and owing to important developments in the international arena, including the defeat of the French in 1940, the divisive policies of the colonial power were eliminated, the unity of the nation safeguarded, and the integrity of its faith and *shari'a* largely secured. It was an altogether different story from what occurred in Indonesia under the Dutch.

In general, then, there were some considerable differences in the policies in accordance with which the various European imperialist powers tried to rule their respective colonies. While they were all only too prepared to use brutal methods to break resistance movements and so as to demolish Islamic institutions and legal systems and impose Western ones instead, the Soviet Union and its Communist allies went further in the use of violence than most. Western European rulers, on the other hand, encouraged proselytization, not only presumably to save souls in the hereafter, but because they found that the missionaries could be usefully employed, as the governor general of the Sudan wrote with typical reference to the (mostly non-Muslim) southern Sudanese in 1905, in "teaching those savages the elements of common sense, good behaviour and obedience to Government authority."⁴⁶ While the French tried to assimilate their colonial subjects, the British, whether in India, Nigeria, Sudan, or elsewhere, tried to rule through existing structures, including *shari'a* courts, judges, and emirs. They subtly bent such institutions and the personnel that managed them to serve their own ends. Western values, principles, and institutions were then gradually introduced. Similarly, though perhaps with less subtlety and dexterity, the Dutch in Indonesia manipulated customary laws (or *'adat*) in order to strengthen their hold over the country and so as to gradually but systematically instill Western (Dutch) values and establish Western institutions instead. It can be fairly concluded, therefore, that European colonialism, whether Western or Soviet, and regardless of differences in style and approach, played an important role in the further weakening and, in many cases, the final destruction of traditional Islamic institutions of learning, law, and governance, and the substitution, invariably on pragmatic grounds, of Western administrative, educational, and cultural institutions, primarily as a means of imperial control and exploitation rather than as instruments of human or socioeconomic development.

TRIAL AND ERROR IN THE SEARCH FOR REVIVAL AND RECONSTRUCTION

AMONG THE MANY and far-reaching consequences of this state of affairs was the effective disintegration of the *Umma*, not only in the political sense of the word—there had been many precedents of that kind before—but also as an integral moral order and a psychologically coherent entity. In other words, the Muslim world now found itself in the grips of a profound and hitherto unprecedented civilizational crisis.⁴⁷ Serious existential as well as sociopolitical consequences were adversely affecting the human rights of both the Muslim and non-Muslim peoples of the Muslim world.

Three broadly distinct—but not infrequently overlapping—patterns of responding to this challenge gradually evolved through the efforts of leading scholars and statesmen across the Muslim world. First among the three trends is one that is driven by the increasingly obvious limitations of traditional ways and institutions in rapidly changing circumstances. The sheer exasperation over the often dogmatic manner in which these ways and institutions were frequently but unconvincingly defended by ill-informed ultra conservatives as Islamic led many people to the adoption of often ill-conceived Western ways, in all walks of life, relegating Islamic equivalents to what Karl Marx and Frederik Engels, writing in a different context, described as the museum of antiquities, next to the stone axe and the spinning wheel.

The most outstanding example of this approach was modern Turkey under its renowned founding leader, Mustafa Kemal Atatürk (1881–1938). An able general and a natural leader, Atatürk reportedly grew up (and remained) an atheist.⁴⁸ He was, moreover, a man of little intellectual sophistication who “surrounded himself with a court of experts, so-called experts, charlatans and cranks in the sciences of history, archaeology, anthropology, phrenology, etymology and philology.”⁴⁹ It is not surprising, therefore, that he thought that Islam and civilization were a contradiction in terms;⁵⁰ he believed that “there is only one civilization [i.e., Western civilization] and if a nation is to achieve progress, she must be a part of this one civilization.”⁵¹

Under Atatürk's leadership in the aftermath of World War I, Turkey was transformed from being the centerpiece of the Ottoman Empire and the Muslim world to a radically secular nation-state on the (essentially nineteenth-century) Western model. The caliphate, the *shari'a*, and

shari'a courts were all abolished in 1924. The hitherto pivotal office of *Shaykhul-Islam* was likewise brought to an end. *Madrasas* were closed down and the Ministry of Religious Foundations (*awqaf*) was replaced by a secular Directorate of Religious Affairs, which was placed under the direct control of the prime minister's office.⁵² To complete the Westernization of Turkey, a long series of other measures were taken, including the purging of the Turkish language of its Arabic and Persian contents and the adoption of the Latin alphabet instead of the Arabic script in which the language had been written from time immemorial.

Likewise, *shari'a* laws were replaced by secular codes of civil law, criminal law, and commercial law which were based respectively on the Swiss, Italian and German codes.⁵³ It is interesting to note in this connection that whereas Article I of the Swiss Civil Code directed judges to follow established doctrine and tradition in certain cases, the Turkish code reproduced the rules in question but omitted reference to tradition.⁵⁴ Also of interest in this regard is the justification of wholesale borrowing of European codes that was incorporated in the Explanatory Note of the Turkish Civil Code of 1926. This code stated:

There are no essential differences among the needs of the nations which belong to the family of modern civilized societies. The constant economic and social relations have actually made one family out of civilized humanity. It is unnecessary, therefore, to deal with the allegation that the application of the Turkish Civil Code, whose principles were borrowed from a foreign country, will not serve the needs of our country.⁵⁵

The enthusiasm of the Kemalists for the Westernization and Turkification of all aspects of life in the country included attempts to devise a Westernized and “nationalized” version of Islam, complete with the introduction of instrumental music in mosques, the Turkification of the call to prayer (*adhan*), and the publication of religious books in Turkish “adapted to the spirit of time.”⁵⁶ Echoing the Turkish experience under Atatürk, a wide variety of individuals, groups, and some governments in different parts of the Muslim world subsequently espoused the Westernization of various aspects of life, including laws and legislation.

In Egypt, Shaykh 'Ali 'Abd al-Raziq (1888–1966) argued that Islam was concerned with purely spiritual matters and had nothing to do with politics. Taha Hussein (1889–1973) questioned the validity of Qur'anic

and biblical history, and in a famous tract on Egypt's cultural future that was published after the conclusion of the Anglo-Egyptian treaty of 1936, he forcefully argued for the wholesale adoption of European ways of life and thought. In an apparently deliberate attempt to be provocative, he urged his compatriots to adopt European civilization in all its aspects: "the good and the bad; the sweet and the bitter; the attractive and the repulsive; the praiseworthy and the blameworthy" alike.⁵⁷

Insofar as law was concerned, such attitudes were already widespread among at least some of the ruling classes of Egypt. They were much encouraged in this by the exercise, under the system of capitulations,⁵⁸ of extraterritorial jurisdiction by consular agents and representatives of European powers in the country and by the establishment, in 1848, of special courts to deal with commercial cases involving foreigners and Egyptians. In 1875 (when the Ottoman Empire, of which Egypt was nominally part, was in the process of compiling the famous *Majalla*),⁵⁹ the Egyptian government promulgated a civil code that was clearly French in inspiration as well as in the vast majority of its precepts.⁶⁰ Similar laws, including a penal code, a commercial code, and codes of civil, commercial, and criminal procedures, were promulgated in the same year.

In 1876, Mixed Courts staffed by foreign as well as Egyptian judges were created and empowered to exercise jurisdiction in all cases in which foreigners were involved. Meanwhile, *shari'a* courts were progressively reduced from being courts of general jurisdiction as they had originally been (at least in principle) to courts whose competence was strictly limited to personal and family matters. By 1875, the situation in Egypt had already been so radically changed that "in the National as well as the Mixed Courts the administration of justice was based on a whole series of codes some of which owed little, and some nothing, to the *shari'a*; and these codes were applied by a class of lawyers trained in the European tradition."⁶¹

By the turn of the century, Islamic modernism, sponsored by Muhammad 'Abdu, Qasim Amin, and others, was already pressing for the reformulation of laws related to personal and family matters. Important changes, many of which were generally accepted or even acclaimed as highly desirable, were accordingly introduced in the course of the following decades.

At this juncture, however, it should be noted that under the guise of modernism and reform, family laws were sometimes so radically transformed that in Tunisia, for instance, polygamy was not only prohibited in

1956; it was also made a criminal offense. Likewise, divorce procedures were amended in such a manner as to prevent abuses and were so further constricted that the dissolution of a marriage could only be pronounced by a court of law.⁶² It is not surprising, therefore, that experienced observers of legislative development in the Muslim world have concluded that although any suggestion of abolishing Islamic law was carefully avoided by the Tunisian authorities, the modernist legislation that they then promulgated was, in effect, as radically secular as its equivalent in Kemalist Turkey.⁶³

By contrast with the above indicated trend toward Westernization, a number of countries have tried, with varying degrees of success, to hold on to the traditional modes of living and legislation, admitting changes only when they became absolutely necessary. Main among these are Saudi Arabia, northern Nigeria, and Afghanistan as well as Morocco, Iran, Yemen, Oman, and the principalities of the Gulf. Having been spared the experience of direct domination by any of the colonial powers on the one hand and being precluded, by virtue of its geographical location, from direct contact with any European country on the other, Saudi Arabia has not "received" any foreign system of law. It may therefore be rightly regarded as the best example of those countries in the Muslim world that are usually described as traditional.

In 1926–1927, the founder of the country, King 'Abd al-'Aziz Ibn Saud (1880–1953), following the thought of ibn Taymiya, considered establishing a code of law not on Hanbali doctrine alone, but on a broad base of Islamic jurisprudence in which each particular ruling or principle would be taken from that school whose doctrine on the point in question was most solidly based on the Qur'an and *Sunna*. Under pressure of protest from the dominant Hanbali 'ulama, however, he had to abandon the project in favor of that *madhhab*,⁶⁴ as mediated by Shaykh Muhammad ibn 'Abd al-Wahhab (1703–1792).

The *shari'a*, so defined, is the basic law of the kingdom. Accordingly, *shari'a* courts, staffed by *qadis*, have general jurisdiction in the country.⁶⁵ Customary tribal law is outlawed. But administrative regulations (which are in principle permitted by the *shari'a*) are very much in evidence. Issued by the council of ministers and sanctioned by the king,⁶⁶ administrative regulations have the force of law, or *qunūn* in Arabic. In order to avoid any possible confusion with secular legislation (which is inadmissible on principle) an administrative regulation is either designated *nizam*,

(ordinance) or *marsum* (decree), not *qanun*.⁶⁷ Administrative regulations govern such matters as commercial courts, taxation (other than *zakat*), labor relations, and traffic. With the growth of the kingdom's oil wealth and all the accompanying social developments since World War II, administrative regulations (or royal decrees) have tended to assume an ever increasing importance in the life of the country.⁶⁸

When the British protectorate in Nigeria was extended to include the Fulani sultanates and emirates in the north in 1900, the traditional institutions of governance, including Islamic (Maliki) law, still had full vigor: "Custom, if not entirely eradicated, has been pushed into the background, and the only existing tribunals were those of the *kadis* who were competent in all matters."⁶⁹ The British, having promised to maintain "native law and custom" when the protectorate was established, and also being "inclined to prefer a formal and explicit doctrine, such as is provided by Islamic law, to changeable and badly defined customs,"⁷⁰ endorsed the existing legal and administrative institutions, with some modifications. By contrast, customary practices restricted the application of the *shari'a* (according to the traditional Hanafi teachings) in Afghanistan.⁷¹

In the Yemen and the principalities of the Gulf, a variety of traditional *shari'a madhhabs* often combined with customary practices in procedure, were maintained until well after the World War II.⁷² Thus, the *Zaydi Madhhab* is followed in north Yemen while *Shafi'i fiqh* is applied in the south. In both, *shari'a* law has been applied in civil and criminal cases as well as personal and family matters.⁷³ Likewise in the principalities of the Gulf, a dual Shi'i-Sunni system of *fiqh* and courts caters to their respective sections of the population.⁷⁴ British judicial jurisdiction was also influential through the treaties and special relations that tied the said principalities to the British government before independence.

With the attainment of independence and the development of oil industries, especially from the 1960s on, however, the situation has been modified, considerably in such cases as Kuwait, through the adoption of Egyptian (and thus continental European) models and prototypes.⁷⁵ Oil wealth, rapidly accumulated since World War II, has in fact transformed the entire social fabric not only in the principalities of the Gulf, but in the whole of the Arabian peninsula, including the kingdom of Saudi Arabia, the citadel of traditionalism in the region and, arguably, throughout the Muslim world. Powerful pressures have accordingly built up for the introduction of correspondingly radical changes in both the political

and the legal structures of the countries in question. Among the many symptoms of these have been events that took place in the Grand Mosque at Makkah in 1979 and the growth, especially since the first Gulf War, of a variety of such movements associated with the exiled Saudi Arabian Muhammad al-Mas'ari.

For several decades previous, however, criticism of traditionalism, particularly in its Wahhabi-Hanbali form prevalent in Saudi Arabia, had been mounting from both within as well as outside the kingdom, and this, it is important to note, came both from proponents of Westernization and secularization and, even more significantly, from renowned Azharite shaykhs and advocates of Islamic revivalism. Thus, Shaykh Mohammed al-Ghazali, writing in 1948, tackled misinformed enthusiasts who, having resolved to return to Islam in their laws and beliefs, started at the wrong end and sought to restore the branches [*al-furu'*] before restoring the principals [*al-usul*]. This prompted retribution and punishment (*hudud*) before making sure that the political system had been established on correct *shari'a* basis. Al-Ghazali wrote:

It might be thought that the religious rule offers us clear evidence of its aims and methods by its manifestations in the Arabian Peninsula. . . . This is because only in these countries is the thief's hand cut off and the adulterer flogged. That is to say, they are the only Muslim governments which insist on the application of these laws in an age which has renounced, and intensely abhorred, them. We do not dispute that these prohibitions are part of Islam, but we find it strange that they are considered to be the whole of it. We wish to see the punishments enforced so that the rights and security and the virtues be preserved, but not that the hand of a petty thief be cut off while those punishments are waived . . . in the case of those who embezzle fantastic sums from the state treasury.⁷⁶

Ghazali's conclusion is that so long as the evils of despotism and economic disparities between the ruling rich and the masses persist in the Arabian peninsula and so long as people are struggling to assure their sheer existence, there can be no talk of the application of Islam or the *shari'a* in these lands.⁷⁷

Forty years later, Shaykh Muhammad al-Ghazali dedicated a whole book to a pungent and hard-hitting critique of what he called *al-fiqh al-badawi* (bedouin jurisprudence). He argued that a patently false, extremely cruel, and grotesquely distorted set of rulings and *fatwas* that was

particularly oppressive of women, non-Muslims, and Muslims in general had been produced and was being energetically spread in the name of Islam and *al-Salaf al-Salih* (the Righteous Predecessors).⁷⁸

In the closely argued and well-documented book *Speaking in God's Name: Islamic Law, Authority and Women* (2001), Khaled Abou El Fadl, a law professor at Yale University, has similarly written about the near extinction in modern times of the richness, open-mindedness, and vitality of classical Islamic jurisprudence. Instead, he finds prevalent trenchant authoritarianism that, he argues, betrays the spiritual and ethical norms and teachings of Islam. Abou El Fadl elaborates and illustrates his argument with special reference to a number of *fatwas* that have been issued by the Permanent Council for Scientific and Legal Opinion of Saudi Arabia in connection with women and such questions as to whether they may or may not legitimately drive cars, work in places ordinarily frequented by men, or wear brassieres, all of which have been determined by the council to be *haram*, that is, prohibited and impermissible.⁷⁹

Energetically propagated around the Muslim world (and beyond) since World War II, Hanbali-Wahhabi doctrines have, in general, been most warmly received in such countries as northern Nigeria and Afghanistan, especially under the Taliban. Meanwhile, countries that are geographically and culturally much closer to Saudi Arabia, including Kuwait, Bahrain, and the United Arab Emirates have opted for the modernistic approach that had already been adopted in such countries as Egypt, Syria, and Iraq. The civil and commercial laws of these principalities were largely modeled in the 1960s and 1970s either directly by Dr. 'Abd al-Razzaq al-Sanhuri, the chief architect of legal modernism in recent times (e.g., Kuwait), or very much under his influence.⁸⁰

Today, neither traditionalism of the sort that dominated northern Nigeria and the Arabian peninsula until after World War I, nor wholesale Westernization and secularization on the Kemalist Turkish model seem to enjoy much support in the Muslim world. By contrast, modernization—meaning the adaptation of *fiqh* and jurisprudence to the circumstances of modern life in the context of a renewed and generally growing awareness of and commitment to Islam as a faith—and the resumption of *ijtihad* with a view to realizing that objective are evidently the dominant themes.⁸¹ But this does not mean that there is anything like unanimity among contemporary Muslims as to what constitutes either modernization or the precise nature

and limits of the means ('*neo-ijtihad*'), as it has, in some of its forms, been designated)⁸² whereby it may be achieved. On the contrary, there has been a considerable variety of approaches on both counts, and that continues to be the case today.

The first steps along the path of juridical modernization were taken by the Ottomans during the era of *Tanzimat* (ordering or reordering) from 1839 to 1876. By contrast with the very limited and occasional reception of foreign influences during earlier phases of Islamic history, the so-called reforms that were then introduced involved extensive and systematic borrowing under mounting political pressures and at a time of accelerating weakness and decay from a variety of European sources and traditions. The upshot of these efforts was the bifurcation of public institutions, including the armed forces, administration, law, and education, into parallel, and invariably conflicting, traditional and modern systems incongruously assembled within the same disintegrating body politic. It was against this background that conditions were created that eventually gave rise to the Kemalist revolution and the emergence of the secular Turkish republic in the post-World War I period.⁸³

As far as the development of *fiqh* and jurisprudence is concerned, the most important event of the era (and for many decades afterwards in both the Ottoman state and the successor countries) was the enactment of *Majallat-i Ahkami Adliye* ("The Book of Rules of Justice"), or the Ottoman civil code, in 1876. Based on *fiqh* of the Hanafi school, the *Majalla* included a total of 1,851 articles, beginning with an introduction that contained the basic principles of Islamic jurisprudence (*usul al-fiqh*) and followed by sixteen books that dealt with such subjects as sales, hiring, guarantee, trusts and trusteeship, wrongful appropriation and destruction, joint ownership, agency, evidence, and administration of justice.⁸⁴

The *Majalla* was rapidly recognized "as an authoritative codification very much like that of a continental European code."⁸⁵ Its great importance derived from two factors: It was the first example in history of official codification and promulgation of the *shari'a* and, although undoubtedly based on Hanafi jurisprudence, it was not confined to the dominant opinion of the Hanafi school but based on an eclectic choice of opinions of a wide spectrum of Hanafi jurists.⁸⁶ Eclecticism—meaning choice, not only between different opinions within one and the same *madhhab*, but across the board and between all accepted schools of Islamic jurisprudence—emerged as an increasingly prominent feature of subsequent efforts at codification and modernization of *fiqh*.

Thus, in 1915, *takhayyur* (the juridical term for selection) was formally adopted in the Sudan, where the Mohamedan Law Courts Organization and Procedure Regulations empowered the Grand Qadi to order *shari'a* courts to apply, wherever appropriate, rules other than those favored by the Hanafi school of *fiqh*, which had been introduced in the country upon its annexation to the Ottoman state in 1821. But the Ottoman state itself had by then been moving in the same direction. A major landmark in the process was the promulgation, in 1917, of the Ottoman Law of Family Rights. Though it ceased to be effective in Turkey following the promulgation of secular laws there by the Kemalists, the 1917 Law of Family Rights continued to operate in a number of the successor states for several decades thereafter. Whereas previously, and in accordance with the teachings of the Hanafi school, a wife could obtain a judicial annulment of her marriage only if her husband had proven totally incapable of consummating it or if he went missing and ninety years had elapsed since the date of his birth, the Law of 1917, following Maliki *fiqh*, enabled a wife whose husband was suffering from a serious ailment that made the continuance of the marital relationship harmful to her to obtain a dissolution of marriage.⁸⁷ Following Hanbali doctrine, the law also made it possible for a wife who had been deserted by her husband without provision for maintenance to obtain a divorce.⁸⁸

Another example is that of Algeria, where, with a view to alleviating hardship suffered by women, *shari'a courts*, acting on the basis of *takhayyur*, preferred to follow the Hanafi doctrine concerning the capacity of an adult woman to conclude her own marriage contract, rather than the Maliki *madhhab* that has been traditionally followed in the country and the region.⁸⁹ In due course, even Saudi Arabia accepted the idea (first proposed there by King 'Abd al-'Aziz in the 1920s but overwhelmingly rejected by the 'ulama at the time) that rulings of other Sunni schools may, in certain circumstances, be preferable to those of the prevalent Hanbali *madhhab*.

Whatever merits it may have had, however, *takhayyur*, especially in its extreme form of *talfiq* (literally, "patching up"), was methodologically questionable.⁹⁰ Besides, it could not and did not go beyond the teachings of the traditional schools. As such, it was of limited value in resolving the problems and issues raised throughout the Muslim world by rapid and accelerating social and political change. With the mounting pressure of new developments, more radical steps had to be taken. Muhammad 'Abdu, Muhammad Iqbal, and others had already seen the need, and cogently

argued, for reopening the door to *ijtihad* (creative intellectual effort). By midcentury, the view that *ijtihad* was a duty incumbent upon the *Umma* at large and competent jurists in particular was widely accepted.

By that time, the *Umma* had been reconstituted as a series of nation-states based on the (essentially nineteenth-century) European model. Leadership—not only in the political, but also in the legal, educational, economic, and other spheres—in the then newly independent Muslim states was predominantly in the hands of secular-oriented elements that had, in most cases, been nurtured by the former colonial powers and their aides. It is not surprising, therefore, that much of the so-called *neo-ijtihad* legislation that was promulgated by these governments and their state-appointed 'ulama and councils of *fatwa* gave the impression, of "forcing from the divine texts that particular interpretation which agreed with preconceived standards subjectively determined."⁹¹

A first step in this direction was taken by the Syrian Law of Personal Status of 1953. The explanatory memorandum to this law argued that the Qur'anic verse that warned married males not to take additional wives unless they were financially and otherwise able to treat them equally fairly (and which had throughout the past centuries been understood as an essentially moral exhortation) should be regarded as a positive legal condition and must, as such, be enforced by the courts "on the principle that the doors which lead to abuses must be closed."⁹² The Tunisian Law of Personal Status of 1957 went further. Its proponents argued that under modern social and economic conditions, equal treatment between wives was practically impossible. Polygamy was therefore prohibited outright.⁹³

Clearly, such types of legislation, mainly devised by politicians and bureaucrats at a time when the various secular "isms" of modern Europe held sway over the generality of the enlightened opinion throughout the Muslim world, did not reflect profound knowledge of either European or Islamic thought and jurisprudence. Nor did they show much concern with or sensitivity to questions of intellectual and ethical integrity. It is apparent that, as previously noted in connection with Kemalist Turkey, the said legislators were, above all, driven by a burning desire to give a gloss of European-type modernity to their respective countries and the legal and sociocultural structures being promulgated in them. Hence, there was the already noted tendency of "forcing from the sacred texts"⁹⁴ such notions and rulings as agreed with their preconceived and subjectively determined positions and, also, the often observed inclination to resurrect

from the grave such individual "and from an orthodox standpoint, eccentric views held by scholars of bygone ages,"⁹⁵ in order to bestow some semblance of legitimacy on those already and subjectively determined positions.

It was with a view to absolving the *Umma* from such distortions and weaknesses and, more positively, in order to reestablish the *shari'a* as a living and intelligently utilized source of legislation in modern-day circumstances that a number of movements and individuals emerged in various parts of the Muslim world and became particularly active in the post-World War II decades. An outstanding representative of what might be described as the middle ground in this trend at the time was 'Abd al-Razzaq Ahmad al-Sanhuri (1895–1971), by far the most distinguished jurist in modern Arab history.

Giving an adequate summary of even the barest outlines of Sanhuri's methodology and work, whether theoretical or practical, is certainly beyond the scope of this discussion.⁹⁶ Suffice it to say that he proceeded to study the principles and historical development of the *shari'a* in close and detailed comparison with the other major legal systems of the world, both ancient and modern, including Roman law and the French and Anglo-Saxon systems. He likewise compared the various traditional schools of Islamic jurisprudence as well as the legal and constitutional systems of a considerable number of modern Arab states in their respective historical and socioeconomic contexts. He eventually distilled his life work, including his views and experience concerning the systematic reformulation of the legal structures of contemporary Arab (and other Muslim) countries, in a series of multivolume studies that continue to be regarded as unrivaled classics of comparative legal scholarship.⁹⁷

Unlike 'Ali 'Abd al-Raziq, Sanhuri held that in Islam, religious and political prerogatives, though distinct, are not separable.⁹⁸ In logical precision and as a system of legal justice, moreover, he was convinced that the *shari'a* has not been paralleled by any other, except possibly Roman, law.⁹⁹ Accordingly, he argued that "We must not hesitate to return to the greatest extent possible to the *Shari'a* and take our rules from it. A great number of the principles which it ascribes equal the most modern rules of Western legislation, if they are not superior. . . . Islamic law has great possibility of evolution and can easily be put on the level of contemporary civilization."¹⁰⁰ For Sanhuri, the argument that Islamic law cannot evolve was superficial and unfounded, and those orientalists who make such claims were historians, not jurists.¹⁰¹

Sanhuri elaborated on these views in his many publications as well as in the course of numerous lectures and debates, which took place in a wide variety of Arab and international forums: academic, judicial, and parliamentary. A major landmark in that process was the adoption by the Egyptian Senate, after years of study and debate, of Sanhuri's revised draft of what became the new Civil Code of Egypt, on October 15, 1949, the day on which the Mixed Courts and Consular system was finally terminated.¹⁰²

Sanhuri had already worked for several years on the Iraqi code that, unlike Egypt's, was based on the *Majalla*. The new Iraqi Civil Code, of which he was the chief architect, was enacted in 1951 and became operative in 1953. Until his death in 1971, Sanhuri continued to be actively involved in the making and development of the constitutions and legal systems of a number of Arab countries, including Syria, Sudan, Libya, Kuwait, and the United Arab Emirates, in addition to Egypt and Iraq. Throughout his long career, both as a theoretician and practitioner, a principal goal toward the realization of which Sanhuri continued to strive, he said, was to ensure that there will be an Arab civil code derived primarily from the Islamic *shari'a*.¹⁰³

Of key importance in any assessment of Sanhuri's legacy and impact in light of the above statement is the expression "primarily." For Sanhuri believed that those Western laws that had been introduced into the legal systems of Arab (and, by implication, other Muslim) countries at various stages in the past had, by virtue of their having been interpreted and reinterpreted by successive generations of local courts and judges, become and must therefore be regarded as part and parcel of the said Arab (and Muslim) legal systems.¹⁰⁴ In any case, Sanhuri maintained, changes must only be introduced gradually and after due consideration of all the relevant facts at any given time and place. Otherwise, he warned, there would be a real danger of the entire system in the country concerned being upset, if not undermined.¹⁰⁵ It is presumably with such considerations in mind that Sanhuri, writing in 1962, said that even the celebrated new Egyptian Civil Code of 1949 "continues to be representative of Western civil culture, not Islamic legal culture."¹⁰⁶ Similarly, he argued that the law of personal status, based on the *shari'a* as it quite rightly and undoubtedly was, had to be made susceptible to application to non-Muslims.¹⁰⁷

As for the future development of law in an Islamic direction, Sanhuri argued that in the silence of existing codes, reference should first be made

to custom, and in the absence of custom, to the principles of the *shari'a*. Otherwise judges are to apply the "principles of natural justice and rules of equity."¹⁰⁸

Many present-day Islamists see Sanhuri, for all his achievements compared with several predecessors and contemporaries, as an essentially transitional figure, one who apparently admired the *shari'a* for its technical qualities or as an expression of the historical civilization of Islam rather than as an expression of Islam as a comprehensive way of life based on religion. Tariq al-Bishri, himself a highly respected jurist as well as a leading thinker among contemporary Arab Islamists, has succinctly expressed the point as follows: "To the end, the matter for him [Sanhuri] remained strictly defined within the framework of pure, unadulterated jurisprudence, without connecting this jurisprudence with religion and its sources and origins in the Qur'an and the Sunna."¹⁰⁹

There can be no doubt in the light of what has been said above that considerable and substantially successful efforts have been made, not least by Sanhuri, to demonstrate at the highest levels of academic sophistication as well as practical application the vigor and vitality of the *shari'a* as one of the greatest legal and juridical systems of the world. It should be added in fairness, furthermore, that the said achievement, even though it may not have been perfect or complete, is nevertheless remarkable and worthy of appreciation for having been made against daunting odds and in extremely unfavorable circumstances.

However, developments that have taken place in the course of the three or four decades since Sanhuri's death in connection with issues of such great practical as well as theoretical importance as banking, economics, and constitutional restructuring have been little less than revolutionary. In the words of Professor Chibli Mallat at the end of his outstanding study of Muhammad Baqir al-Sadr's contributions to the renewal of Islamic law, "No longer is family law the last precinct of the jurists. Islamic law has regained the high ground in disciplines which had seemed only a few decades ago beyond its pale: constitution, economics and banking."¹¹⁰ As far as human rights and democracy in particular are concerned, the debate continues unabated.

ISLAM, DEMOCRACY, AND HUMAN RIGHTS

Commitment to Westernization is no guarantee of democracy, nor is application of Islamic law a proof of an inherent authoritarianism in Islam.

John L. Esposito and John O. Voll, in *Islam and Democracy*

It is more fruitful in thinking about human rights to draw the dividing line . . . : not between a secular and non-secular world-view but between one that respects the inherent worth of the individual and his or her inalienable rights, even if that is encompassed in a metaphysical or religious framework, and a world-view that does not, be it religious or secular.

Katerina Dalacoura, in *Islam, Liberalism and Human Rights*

Observing human rights (such as justice, freedom, and so on) guarantees not only the democratic character of a government, but also its religious character.

'Abdolkarim Soroush, in *Reason, Freedom, & Democracy in Islam*

DEMOCRACY IS A CONTESTED and often imperfectly understood idea or cluster of ideas, procedures, and institutions. According to the famous aphorism attributed to Sir Winston Churchill, it is, in many ways, a bad system of government, but it is,

nevertheless, the best that modern humanity has been able to devise to date.

Commonly identified with elections and majority rule in particular, democracy may more accurately be described for the present purposes as a system of governance where rulers come to power through a process of free elections in which all citizens, irrespective of differences in race, faith, sex, class, status, or wealth, are equally enfranchised; where the majority rules but with due respect for the rights of the minority and in accordance with certain principles and procedures that are enshrined in the constitution; where the rulers are accountable to the ruled, the judiciary is independent of the executive, and all are subject to the rule of law; where citizens, individually and collectively, are free to enjoy their lives as they see fit within the bounds of fair laws and common decency; where freedom of thought, conscience, expression, and organization are protected under the constitution and the law; and where opposition is legitimate and free to seek power in subsequent elections.¹

Because democracy and human rights are thus demonstrably inseparable, and because it is held here that democratic governance is the sociopolitical environment in which human rights can best be protected and promoted, the relationship of Islam to human rights is now discussed in connection with its relationship to democracy.

The subject thus perceived is to be considered with special reference to certain pivotal questions, among which are the following:

- Are Islam, democracy, and human rights compatible?
- If the answer is in the affirmative, why is it that the greater part of the world's more than fifty Muslim-majority states are distinctly undemocratic?
- Given that situation, what can the Muslims and non-Muslims concerned do in order to promote democracy and respect for human rights in the Muslim world?
- Would Muslims ultimately have to choose between their faith, civilization, and way of life on the one hand, and democracy, human rights, and good governance on the other? Or is it possible to conceive of Muslims remaining faithful to Islam while at the same time enjoying the justice, freedom, and other human rights that can only be effectively upheld and truly guaranteed in democratic and not authoritarian regimes of whatever description they may be?

In certain Western quarters, especially in the United States of America, these questions and related issues have acquired special urgency since the tragic events of September 11, 2001.²

Throughout the Muslim world for well over a century, thinking people have been pondering and discussing what for them are existentially pressing questions about governance and economy, culture and society, history, and destiny, often in the context of Western Muslim relation. In 1867–1868, for example, Khayr al-Din al-Tunisi (d. 1889) published a remarkable book, *Aqwam al-Masalik fi Ma'rifat Ahwal al-Mamalik*, which may be somewhat freely translated as “The Surest Path to Understanding [the Sociopolitical] Conditions of [Contemporary Western] States.” In the introduction, Khayr al-Din explained the purpose of his book as follows:

First, to urge those who are zealous and resolute among statesmen and men of religion to adopt, as far as they can, whatever is conducive to the welfare of the Islamic community and the development of its civilization, such as the expansion of the bounds of sciences and learning and the preparation of the paths which lead to wealth . . . and the basis of all this is good government. Secondly, to warn those who are heedless among the generality of Muslims against persistence in closing their eyes to what is praiseworthy and what conforms with our own religious law in the practice of adherents of other religions, simply because they have the idea fixed in their minds that all the acts and institutions of those who are not Muslims should be avoided.³

Citing Qur'anic directives wherein Muslims are urged to settle matters of common concern through consultation (*shura*), Jamal al-Din al-Afghani (1838–1897) later went further by arguing that according to the Holy Book, authority ultimately belongs to the people, and rulers have no right to govern without the consent of their subjects.⁴

Some eight years after the publication of *Aqwam al-Masalik*, and largely on the initiative of Midhat Pasha, who was then the grand vizier of the Ottoman Empire, the first modern-type constitution in the history of *Dar al-Khilafa* (literally, “The abode of a Caliphate,” which is a way of referring to the Ottoman Empire) was promulgated by the sultan in 1876. The first experiment in parliamentary government that was thereby introduced, however, proved to be short-lived (it lasted for about one year),

and Midhat Pasha was himself sent into exile. Egypt and Persia witnessed the introduction of similarly short-lived experiments in constitutional government in 1881 and 1905, respectively.

Evidently inspired by the apparent success of national independence movements and the desire of their leaders to carry the logic of freedom and self-determination forward into the postindependence epochs of their respective countries, somewhat more robust experiments were introduced during the 1920s in a number of Middle Eastern Arab countries. These included Iraq in 1921, Syria in 1928, Lebanon in 1926, and Egypt in 1923. However, none of these proved to be a great success and all four ended in failure: Iraq in 1938, Syria in 1949, Egypt in 1952, and Lebanon (perhaps the most pluralistic and open of modern Arab states) in 1975.

In the Sudan, where full-fledged parliamentary government was first introduced on the country's formal attainment of independence on January 1, 1956, military coups and the collapse of parliamentary governments proved to be a regular, if not chronic, pattern. Thus, the first experiment in parliamentary government was brought to an end less than two years later, in November 1958. General Ibrahim 'Abdoud's military regime that then took over was overthrown by a remarkable civilian coup in October 1964, parliamentary government being restored thereafter—only to be once again overthrown by another military coup in May 1969. The second military regime, led by General Ja'far Numairy, lasted for sixteen years until 1985. Parliamentary government was restored shortly thereafter only to be overthrown for the third time in June 1989 by the existing regime of General 'Umar Hassan al-Bashir.⁵ Meanwhile comparable developments took place in other parts of the Muslim world, from Nigeria and Algeria, through Turkey and Iran, to Indonesia and Pakistan.

The reasons behind the failure of constitutionalism and parliamentary institutions in so many Muslim-majority states were many and varied. Among the most important have been the absence of the sociocultural preconditions necessary for the successful growth and development of the said systems and institutions; the tendency of leaders and politicians, once independence has been achieved, to transform democratic institutions into virtual oligarchies; the absence of Islamic validation for the adoption of Western concepts and institutions in predominantly Muslim societies; and last but not least, the dilapidating and distorting impact of the long drawn-out and continued Israeli-Arab conflict on the sociocultural and political life of the Arab world.⁶ In fact, the ignominious defeat

of several Arab armies by (partly irregular) Israeli fighters in 1948 was one of the principal factors that sealed the fate of constitutional and parliamentary governments in Arab countries for many years thereafter. The young military officers who took over from discredited civilian politicians in one country after another were enthusiastically greeted by the public wherever they went, and military government was at the time widely accepted as the practice most likely to restore deeply wounded national pride as well as bring about much-needed economic development and social justice. A considerable literature, largely premised on the efficiency and modernizing capabilities of the military, emanated from a number of American academic centers and sought to rationalize the proliferation of military governments in developing countries in general and in the Middle East in particular.

Willingly or unwillingly, the Muslim world saw authoritarianism, whether of the military sort, the single-party variety, or the traditional monarchy or tribal chieftainship, become the dominant style of governance from Morocco and Algeria to Pakistan, Indonesia, and Afghanistan. Security forces, police, and intelligence organizations have been carefully and assiduously built into elaborate structures for the purpose, throughout, of controlling not only the basic state organs and machinery of government, but also the economy, education, culture, art, information, and the media. In many cases, the institutions of traditional religious education (including some of the most ancient and venerable) have also been brought under central government control, together with the charitable institutions (*awqaf* or *hubus*) that were instituted long ago, in order to guarantee regular financial support for these institutions and hence their independence.

Whatever the type of regime in question—monarchic, revolutionary socialist, secular, or Islamic—authoritarianism continued to be contentiously defended, and oppressive policies were justified as necessary or desirable in the interest of the nation and the people or, in the case of regimes that saw themselves as Islamic, as religiously required and in the interest of the *Umma*. Especially during the difficult cold war years of the 1950s and 1960s, human rights in general and the rights of the individual person in particular were often decried or underrated in nationalist and leftist Arab circles as irrelevant, reactionary, or utopian notions that were not worth considering, if at all, until after socialism and the unification of the Arab lands had been realized. Sati' al-Husri (1880–1968), who was probably the greatest and most influential theoretician of Arab

nationalism, explained the importance of political unity for Arab nationalism, cogently observing:

He who refuses to annihilate himself in the nation to which he belongs may, in some cases, find himself annihilated within an alien nation which may one day conquer his fatherland. This is why I say continuously and without hesitation: Patriotism and nationalism before and above all . . . even above and before freedom.⁷

Consistent with this outlook the Egyptian Charter For National Action, in order to deliver preemptive attacks against possible proponents of individual freedoms and critics of 'Abd al-Nasir's military regime, contained such characteristically bellicose mottos and statements as, "No freedom for the enemies of freedom!" and "Freedom is for the people; no freedom for the enemies of the people!"

The same hostile posture toward political freedom and human rights was adopted by the military regimes established on the Nasirist model by Mu'ammār al-Qadhafī in Libya and Ja'far Numairy in the Sudan. Liberal democracy was condemned throughout as bourgeois and false while so-called people's democracy was eulogized and promoted as genuine and in the interest of the people. Meanwhile, even more rigorously authoritarian regimes were established, very much on the Soviet model, by the two rival Ba'th Socialist parties of Syria and Iraq in their respective countries and also, though along different lines, in Tunisia, especially after the displacement of its president-for-life, Al-Habib Bourguiba.⁸ The Algerian Front de Libération Nationale had in the meantime transformed itself from a successful national-cum-Islamic liberation movement into a typically authoritarian single-party regime. Not surprising in the circumstances, widespread corruption and massive oppression involving extensive and oftentimes indiscriminate infringements of human rights, together emerged as dominant features of the political scene across the board.

In the circumstances, many of those in prisons and concentration camps in the Arab world have not surprisingly become so completely radicalized that they have often opted for what amounted to a declaration of war and violence against existing societies and states. The Egyptian Society of Muslims, more generally known as *al-Takfir w'al Hijra* (i.e., Excommunication and Hegira) was a prominent example of this trend.⁹

Evidently preoccupied with the race to win friends and influence people during the cold war and after, Western powers, which might have

been expected to do something for the protection if not the actual promotion of democracy and human rights, generally preferred to serve their short-term strategic and economic (mainly oil) interests by befriending dictatorial and oppressive regimes instead of trying to uphold the principles and ideals to which they were in theory committed.¹⁰

Developments in the Middle East and elsewhere brought about some important, though as yet indecisive, changes in the situation. First among these was the second major defeat of Arab states at the hands of the Israelis in the Six Days' War in June 1967. The consequences for the military and other authoritarian regimes in the region were in many ways comparable to those that befell the parliamentary regimes in consequence of the first major defeat of 1948. The absence of democracy and of respect for human rights was commonly identified and widely discussed as major contributory factors to the crushing and humiliating defeat. This, in turn, paved the way for the launching by President Anwar al-Sadat of his *Infatih* (literally "opening up" or "liberatization") policy, which in many ways constituted a reversal of policies that had been favored by his charismatic predecessor, Jamal 'Abd al-Nasir. Regardless of the merits and the demerits of the two approaches, the opening up, which had political aspects involving the release from prison of tens of thousands of detainees, as well as parallel economic dimensions, had the important effect in Egypt and, in due course, elsewhere in the region of encouraging public debate, criticism, and evaluation of governmental policies, including especially issues of freedom and human rights. The assassination of President Sadat in 1981, however, generated a reconsideration of *Infatih* and a tightening of security measures not only in Egypt, but across the Arab world as a whole.

Significantly, the third wave of global democratization that by 2002 had nearly tripled the number of democracies in the world since 1974 (including a rise in the number of democracies, from zero in Eastern Europe and among the states of the former Soviet Union before the downfall of Communism to nineteen out of twenty-seven, from five to twelve in Asia excluding the Pacific Island states, and from three to nineteen in sub-Saharan Africa) has left the Middle East largely untouched.¹¹ Only Turkey and Lebanon among the eighteen Muslim-majority states of the Middle East and North Africa are democracies; however, Turkey has been troubled by repeated military interventions, and Lebanon has been troubled by a variety of internal and external political constraints. Furthermore, according to Freedom House statistical analyses, when compared

with the rest of the world, the Middle East and North Africa is not only the least free region in terms of political rights and civil liberties; it is also the only region where the average level of freedom has actually declined since 1974.¹²

Pointing out the fact that not a single Arab leader has ever been peacefully ousted at the ballot box, the *Economist* has also reported that the Arab League's twenty-two states remain "the most uniformly oligarchic slice of the world."¹³ Similarly, the United Nations Development Programme's (UNDP) Arab Human Development Reports for 2002 and 2003 state that "there is a substantial lag between Arab countries and other regions in terms of participatory governance"¹⁴ and that Arab countries have, on average, "continued to evince the lowest levels of freedom among the world regions."¹⁵

Faced with mounting pressure for change and reform, some Middle Eastern authoritarian regimes, such as Morocco, Algeria, Egypt, and Kuwait, along with others from outside the region, have evolved an interesting survival strategy that has been designated "liberalized autocracy."¹⁶ This typically involves the adoption by the state of some popular socio-cultural causes, persons, or institutions, along with the co-option of a few prominent individuals of different political orientations, the purpose being to bestow a gloss of legitimacy and pluralism on the regime. The co-opted individuals may either be given honorific positions without any power to wield, or they may be entrusted with jobs that require some professional skills where they may be usefully but safely engaged, while key decision-making positions or ministries, such as finance, defense, and foreign and internal affairs, continue to be reserved for core members of the regime who often hold such positions for as long as twenty years. In an apparent bid to ensure continuity beyond mortality, moreover, some of the authoritarian regimes in question, including some self-styled revolutionary, progressive, or socialist ones, have also embraced the hereditary principle that has until recently been generally considered to be among the most repulsive hallmarks of archaic monarchies and tribal chieftaincies.

Limited liberalization, involving the use of controlled elections and greater participation (however symbolic or limited), has often been adopted by authoritarian regimes to offset the political effects of unpopular austerity measures mandated by the International Monetary Fund. Selective repression, however, remains among the more important instruments of liberalized autocracies. Whereas full autocracies, prominent

amongst which are Tunisia, Libya, Syria, and Saudi Arabia, have been described as regimes that "do not abide the slightest expression of dissent or pluralism,"¹⁷ liberalized autocracies do not merely tolerate but, confident of their positions, actually foster and depend on a certain degree of state-managed pluralism as a strategy for legitimation and survival.¹⁸

A good example of the devious and manipulative nature of so-called liberalized autocracies—one that is of direct relevance to the quest for human rights in the contemporary Muslim world—is the affair of the Sudan Charter on Human Rights. This document was prepared by the Human Rights Committee of the Transitional National Assembly, a body of individuals drawn from a wide spectrum of Sudanese society, which was appointed by the Revolutionary Command Council in December 1993 as part of its then declared policy of gradual normalization after the military coup on June 30, 1989. The document was mainly authored by Christian and Muslim people, some of whom had been engaged in the drafting of conventions and the promotion and protection of human rights at the national, regional, and international levels since the 1960s; its aim was to produce a study of the subject together with a national charter of human rights with which all Sudanese people, irrespective of differences in culture, religion, political inclination, or ethnic background, could easily identify and on which they could sincerely agree. Quoting the famous Islamic dictum that God will sustain a just state even if it were one of non-believers and will not grant sustenance to one that is unjust even if it happened to profess Islam, the document also emphasized the transitional nature of the existing military regime. There was the need, it said, for the establishment in the country of elected democratic institutions where under the rule of law accountability would be established and the human rights of all citizens and residents (including refugees, of whom large numbers from various neighboring countries had for decades been present in the Sudan) would be fully respected and effectively protected.

The document was warmly received in the Assembly when it was presented there in April 1994. In the course of the ensuing debate, an important amendment was introduced to stipulate that the publication of the charter be accompanied by a nationwide campaign in which governmental and nongovernmental organizations would participate, whereby all infringements of human rights in the Sudan would be immediately stopped and the rights of all citizens and residents in the country would henceforth be effectively and unfailingly protected. With this addition, the Sudan Charter on Human Rights was then unanimously and enthusiastically

adopted, thus formally becoming an official and binding legal document. Reflecting the spirit with which the charter was received and adopted, the speaker of the Transitional National Assembly immediately directed that the charter be sent to the United Nations head offices in Geneva and New York for endorsement and distribution in all six languages of the world body as an official U.N.–Sudan document.

However, it soon became obvious that certain invisible forces that have never been specifically identified, and for reasons that have never been publicly stated, had unilaterally decided that the Sudan Charter on Human Rights should simply be set aside. It was also discovered that the version of the charter, of which a limited number of copies had belatedly been printed in Khartoum, had been textually tampered with, certain parts having been deleted without reference to the Transitional National Assembly.

Once the publication of the distorted version of the charter was known to the Human Rights Committee (HRC), the HRC began pressing for its withdrawal and for the publication instead of the complete text as approved by the Transitional National Assembly. A letter to that effect was formally submitted to the Speaker of the Assembly, but several weeks passed without any response or result. The issue was then raised in the Assembly during one of its debates. The HRC had in the meantime proceeded with the investigation of some fifty cases of alleged infringements of human rights in the country. In the course of its work, the HRC decided that some ministers and heads of certain governmental organizations, including security and police forces, should be contacted with a view to getting their assistance in connection with the ongoing investigations. Some sixty letters were dispatched accordingly, but, again, several weeks passed without any response from any of the said organs. Reminders were twice sent thereafter, but the situation remained unchanged. One day, shortly after the second set of reminders had been dispatched, the Speaker suddenly and without any prior notification or consultation informed members of the Transitional National Assembly by circular letter that the HRC had been dissolved and that a new committee was in the process of being created instead. Some members, including the chairman and deputy chairman of the HRC, then withdrew from the Transitional National Assembly and subsequently left the country altogether.

In the light of the experience of the Sudan Charter on Human Rights, it should not be surprising that such national committees or councils of

human rights as have sometimes been appointed (from among loyalists and party cadres of course) by so-called liberalized autocracies are normally concerned not so much with the protection and promotion of human rights, but with the justification and defense of governmental policies and infringements of human rights. (Because of the international context in which it has been created, and owing to the fact that some of its members are reputed to be individuals of integrity as well as ability and experience, the National Council for Human Rights that was established in Egypt early in 2003 may hopefully prove to be an exception to what has so far been the general rule.)

Similarly, the fact that in many of the various kinds of autocratic regimes in question there are written constitutions with sometimes impressively worded bills of rights does not necessarily mean that the human rights of the citizens of the country or countries concerned are respected or upheld. The exact opposite is often the case and regardless of the nature or ideological orientation of the particular regime in question. The fact that the Qur'anic injunction about *shura* is often displayed as a motto in the chamber halls of ineffective parliaments and elsewhere is likewise unrelated to the manner in which decisions are actually taken and implemented. It is as if words and actions on such regimes belong to different universes that are eternally suspended in parallel planes of existence.

It quite logically follows that the same state of disjuncture between theory and practice that dominates the political processes within the various autocratic regimes under consideration is projected into the regional, Arab, and intraregional, including especially pan-Islamic, organizations. Thus the Arab Charter on Human Rights was adopted after years of debate and negotiations in 1994. Ten years later, however, none of the twenty-two member states of the Arab League had ratified the charter that they had themselves drafted and adopted. This almost incredible fact alone speaks volumes about the nature and quality of the charter in question, the importance (more accurately perhaps, the non-importance) of human rights for the League, and the nature and attitude of the member states of the League to the subject of democracy and human rights as a whole. In an effort to salvage the situation and after more prolonged discussions and negotiations, a revised draft of the charter was prepared for final review and adoption by the Arab leaders' meeting that was scheduled to take place in Tunis on March 29–30, 2004. Incredibly, and no less embarrassing, the meeting broke up and was declared over before it got down to business.¹⁹

Given the above indicated state of affairs, it is by no means certain that a revised charter, if and when it is approved, will be either ratified by member states of the League or be of much value in the effective protection and promotion of human rights in the Arab world. What is certain and clear as of the time of writing is that the same state of paralysis and immobility that has thus far held the Arab League back from evolving the means necessary for the effective protection and promotion of human rights in member states of the League has been projected onto and built into the Cairo Declaration on Human Rights in Islam. This statement was issued by the nineteenth Islamic conference of foreign ministries of the Organization of the Islamic Conference held in Cairo, on August 5, 1990. The said declaration concludes with two open-ended statements: Article 24 says that "All the rights and freedoms stipulated in this Declaration are subject to the Islamic Shari'ah"; Article 25 states that "The Islamic Shari'ah is the only source of reference for the explanation or clarification of any of the articles of this Declaration."²⁰ But there is no indication given as to how the *shari'ah* would be interpreted in any given situation, or by whom.

Given the ambiguity and inconclusive nature of the two key statements in question, it is clear that a formula for either open-ended argument and disputation about the real meaning and intent of the declaration, or a continued state of inaction and repose, has thus been built into the very structure of the Cairo Declaration. It therefore is of hardly any theoretical or practical use or value as far as the protection and promotion of human rights, whether in the Muslim world or elsewhere, are concerned.

It can be fairly concluded in the light of what has been said above that, as of the time of writing, the overall condition of democracy and human rights in the Muslim world in general and especially at the official and governmental levels of its Arab core is truly dismal. Needless to say, however, that within this generally gloomy situation there are differences and variations between, for example, Morocco and Jordan on the one hand, and Tunis and Saudi Arabia on the other. Owing to the continued fighting and occupation by Israeli and United States forces, the human rights situation in the occupied Palestinian territories, Iraq, and Afghanistan, as has been attested by numerous U.N. and Amnesty International reports, continues to be much worse than it is elsewhere in the Muslim world as a whole.

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When official and governmental institutions and the efforts made through them at the national, regional, and supranational levels are excluded and the preferences and attitudes of individual persons and civil society across the Muslim world are in focus, a radically different situation is revealed. Thus, a survey of forty-four nations that was carried out by the Pew Research Center in June 2003 found that people in Muslim countries, from kingdoms such as Jordan and Kuwait to authoritarian states such as Uzbekistan and Pakistan, place a high value on freedom of expression, freedom of the press, multiparty systems, and equal treatment under the law. In fact, the Pew report continued, "many of the Muslim publics polled expressed a stronger desire for democratic freedoms than the publics in some nations in Eastern Europe, notably Russia and Bulgaria."²¹

At the same time, the report pointed out, "most Muslims also support a prominent and in some cases expanding, role for Islam and religious leaders in the political life of their countries. Yet that opinion does not diminish Muslim support for a system of governance that ensures the same civil liberties and political rights enjoyed by democracies."²²

It is interesting to note that the global Muslim majority position that thus favors a prominent role for Islam together with a system of governance that ensures the same civil liberties and political rights enjoyed by democracies clearly resembles the situation that already exists in a number of important non-Arab Muslim countries, prominent among which are Malaysia, Turkey (under Prime Minister Recep Tayyip Erdogan and his Justice and Development Party), Bangladesh, and Indonesia, which is by far the largest and most populous Muslim country in the world.

It may be that democracy in none of these countries is yet as well established as it is in, for example, India or Spain. But they are clearly proceeding in different ways and on different time scales along the same route of continued and progressive democratization. Reassuring indications that this is indeed the case include the fact that the leaders of these nascent Muslim democracies and their supporters are mostly "pragmatists [who are] inspired by the progressive values they discern in their faith, not ideologues scouring scriptures in search of some ready-made blue prints."²³ Insofar as this is an accurate assessment of the situation in the said four countries and barring presently unforeseeable developments, it is from countries such as Malaysia, Turkey, Indonesia, and Bangladesh, rather than Iraq or Afghanistan (both of which are under occupation by

foreign military forces), that model Muslim democracies are likely to emerge.

It will be remembered, however, that the strong desire for democratic freedoms that the Pew investigation uncovered is a common feature of contemporary Muslim societies around the globe. It is by no means confined to the inhabitants of the four countries mentioned above. In other words, real possibilities of democratic change are already in existence throughout the Muslim world, not only on account of the strong public desire for democratic freedoms, but owing also to the simultaneous presence throughout the Muslim world today of powerful demographic, economic, and political pressures (both internal and external) for democratic change. Whether the impending changes will come about in an orderly and peaceful manner or otherwise to a large extent depends on the wisdom and skill (or lack thereof) of the incumbent regimes.

Another and no less crucial factor in the successful completion of the impending democratization process of the Muslim world, whichever way it may come about, is the clarity and depth of understanding by all parties concerned of the various issues involved. Closely related to this is the degree of sensitivity and consideration with which the religious and socio-cultural sensibilities of Muslim peoples (who are in any case destined to have to endure the rigors of far-reaching societal changes in a distinctively uncompassionate age of globalization) will be handled. One of the outstanding issues in question is whether secularism is a necessary precondition of democratization and hence of the effective protection and promotion of human rights in the Muslim world. Needless to say, a great deal has already been said and written, sometimes in considerable detail, by both proponents and opponents of secularism across the Muslim world.²⁴ More will undoubtedly follow in the course of the years and decades to come.

Briefly stated, the main points that need to be kept in mind when dealing with secularism and secularization in the context of the ongoing debate in the Muslim world today include several concerns. First, secularism—meaning primarily the separation of church and state on the one hand and the assertion, on the other, of the primacy of reason and the scientific method to the exclusion of religious beliefs and metaphysical notions as regards the pursuit of knowledge and the truth—evolved in early modern and subsequent phases of European history and was largely shaped and conditioned by the specific societal and historical

conditions in which it was crystallized. Particularly important in that context were the prolonged and bitter conflicts between church and state and between the church and several of the fathers of modern thought and science.²⁵

Second, and closely related to the previous point, there is the secularization thesis, particularly associated in more recent phases of modern Western social thought with Comte, Durkheim, Marx, Freud, and Weber. This hypothesis holds that the historical evolution of human societies, not only in the West, but throughout the world, necessarily involves the progressive shedding of religious beliefs and practices as remnants of primitive and pre-rational stages of human consciousness and the progressive reliance of humanity on reason, science, technology, and industrial development instead. It was in this context that Westernization and secularization came to be widely regarded among development theorists (at least until the 1970s) as essential components or preconditions of modernization and development, including democratization, of human societies everywhere.

It was also in this connection that a third important dimension of secularism gradually but unequivocally evolved. For many of its adherents and proponents, secularism was effectively transformed from a historically rooted approach to understanding and managing sociopolitical and philosophical questions into a dogmatically held atheistic faith, a virtual anti-religious religion, instead. The Jacobins of the French Revolution and the Marxist-Leninists during the twentieth century are among the most prominent examples of this brand of militant atheism.

Secularism in its various forms and connotations, including religious skepticism and militant atheism, did make some considerable headway through much of the Muslim world, including Turkey and Egypt, especially in the course of the two or three decades following the dissolution of the Ottoman Empire and the abolition of the caliphate through the 1930s and 1940s. The positions taken in the context of the then accelerating drive for Westernization by Shaykh 'Alī 'Abd al-Rāziq with regard to the separation of government and religion and by Taha Hussein concerning the validity of biblical and Qur'anic historical accounts and Egypt's cultural future and identity have already been mentioned.²⁶ At a much lower level of sophistication and finesse, but no less vociferous, Salama Musa (1887–1959) published numerous books and pamphlets in which he persistently attacked classical Arabic culture for being, in his view, too heavily imbued with religious values, and he vigorously campaigned

for the substitution of the Latin alphabet in writing the language in the manner of Kemalist Turkey, arguing that this would constitute "a leap forward" to civilization and progress.²⁷ Meanwhile, Joseph Rosenthal, supported mainly by fellow members of the then thriving Jewish community of Egypt, together with others who were mostly drawn from the Armenian and Greek minorities in the country, established the first Communist party in the Arab world in Egypt in 1922. Another Communist party was similarly established in Palestine in 1925 by mainly Jewish and other non-Muslim individuals. In these circumstances, neither attained great power or influence; the most significant achievement of the Egyptian Communist Party was the recruitment of some Sudanese students who subsequently established the Sudanese Communist Party, for many years the largest and most effective Communist party in Africa and the Arab world.²⁸

The propagation of atheism as a philosophical worldview independent from political activism, such as was openly or discreetly engaged in by cadres and fellow travelers of Communist parties throughout the Muslim world, was energetically undertaken by certain Westernized individuals. Prominent among them in Turkey and Egypt were Isma'il Mazhar (1891–1962) and Isma'il Adham (1911–1940). Mazhar established a publishing house, *Dar al-'Usur* in Cairo specifically for the purpose of propagating atheism especially in connection with translations of, for example, Darwin's *Origin of Species* and Bertrand Russell's *Why I Am Not a Christian*.²⁹ Similarly, Isma'il Adham, who had been educated in Russia and obtained a doctorate in science from the University of Moscow, established an association for the propagation of atheism, first in Turkey and later in Egypt. On July 23, 1940, however, Adham drowned himself in the Mediterranean, leaving a note in which he revealed that he hated life and requested that his body be incinerated and not buried in a Muslim cemetery.³⁰ Adham's tragic end was symbolic of the death and extinction, for all practical purposes, whether in Egypt or elsewhere in the Muslim world, of the atheistic ideas that he represented and energetically tried to propagate through much of his short and evidently unhappy life.

This situation, together with mounting resistance to secularism that frequently went hand in hand with skepticism and atheism, was often accompanied, especially from the 1930s on, by a remarkably strong revival of belief in Islam as a faith and a way of living among both the literate,

including Westernized intellectual elites, and the generality of urban Muslim peoples. The revival of interest in Islam that thus marked the 1930s and continued to build up thereafter seems to have been prompted, to a considerable extent, by the powerful waves of Westernization involving secularization, atheism, and general de-Islamization that had earlier appeared to have engulfed the Muslim world. Prominent among Western-educated Egyptian thinkers who thus rediscovered Islam and then proceeded to eloquently and systematically articulate their renewed conviction and commitment to it during the late 1920s and early 1930s was Dr. Muhammad Husain Haykal (1889–1956). A graduate in law from the Sorbonne, the author of a three-volume study on Jean Jacques Rousseau, and for many years widely known as a leading liberal writer, Haykal attained even greater fame and eminence as the author of a number of studies on major Islamic themes and personalities. Principal among these was *Hayat Muhammad* (The Life of Muhammad), a work, first published in 1935, that became a classic of its genre and was subsequently translated into English by the late Professor Ismail Raji al-Faruqi (d. 1986) of Temple University in Philadelphia.³¹

Of perhaps even greater impact were the many and varied contributions of the highly sophisticated and intellectually multifaceted thinker 'Abbas Mahmud al-'Aqqad (d. 1964). Having first made his mark during the 1920s as a poet and critic who greatly admired and was much influenced by English Romantic poets such as Shelley, Byron, Arnold, Hazlitt, and Carlyle, al-'Aqqad emerged as one of the major and most influential of modern protagonists of Islam and the Arabic language. His numerous and characteristically closely argued and skillfully structured publications included *The Philosophy of the Qur'an*; *Thinking: An Islamic Obligation*; *Man in the Qur'an*; *Women in the Qur'an*; *Islam and Human Civilization*; *Islam and Colonialism*; and *Democracy in Islam*, in addition to more than ten analytical portraits of major Islamic personalities including the two prophets, Jesus Christ and Muhammad. The entire series culminated in two books, *The Devil and God*, a study of the history and foundations of religious belief.

One of al-'Aqqad's most brilliant disciples, Sayyid Qutb (d. 1966), who like his mentor first came to prominence as a poet and literary critic, later became widely known throughout the Muslim world both as a martyr (he was condemned to death by Jamal 'Abd al-Nasir following the publication of Qutb's controversial revolutionary manual "Signposts Along the Path")

and, even more importantly, as perhaps the most influential Islamist thinker during the second half of the twentieth century. His multivolume commentary on the Qur'an, along with his many other writings, including *Social Justice in Islam* and *Signposts Along the Path*, continues to be widely read and discussed in both the original Arabic and in translations across the Muslim world and beyond.³²

In the meantime, Taha Husain softened his original stance on Egypt's cultural identity and also produced several volumes on a variety of Islamic themes and subjects. Many others, including Isma'il Mazhar, 'Ali 'Abd al-Raziq, Mansur Fahmi, and, later on, Khalid Muhammad Khalid and Mustafa Mahmud, followed suit. The rediscovery of Islam by leading intellectuals, scholars, and artists, many of whom had previously upheld Marxism, liberalism, existentialism, and other "isms" of mainly Western origins, was no longer a matter of isolated individual cases but instead became a clear and steadily rising trend in Egypt and throughout the Muslim world.

In Iran, for example, agnostic, atheistic, and deist ideas that had previously been advocated by Ahmad Kasravi, 'Ali Dashti, and Sadiq Hidayat, among others, were progressively abandoned by many thinkers and activists in favor of Islam (in its Shi'i form, given the history of Iran since the sixteenth century³³) both as a faith and as a guide for social and political reform.³⁴ Thus, starting off as a Marxist, a member of the Tudeh Communist Party and an advocate of radical internationalism, Jalal Al-e Ahmad (1923–1969) underwent a more dramatic political transformation than had been experienced by either Taha Hussein or Muhammad Husain Haykal in Egypt. For this reason, and in view of the centrality of his life and thought to the subject that is now under consideration, it is worth having a closer look at Al-e Ahmad's experience. Having broken off with the Tudeh Party, Al-e Ahmad embraced nationalism and was subsequently attracted by existentialism and by Jean Paul Sartre in particular as well as by Martin Heidegger and, to a lesser extent, Albert Camus, before he finally emerged as a leading advocate of Islam and the Shi'a 'ulama as the most authentic and effective forces of liberation from both internal oppression and external domination. The publication of what proved to be his magnum opus, *Gharbzadegi* (variously translated into English as *Occidentosis: A Plague from the West* or, simply, as *Westoxication*) in 1962 met with immediate and "massive success."³⁵ Some critics, somewhat too enthusiastically, compared it in importance and significance to the *Manifesto* of Karl Marx and Fredrick Engels and *The Wretched of the*

Earth of Franz Fanon.³⁶ A more measured academic assessment of the book by Hamid Dabashi, however, still ranks it very high indeed:

In terms of its appeal to a generation of social activists [*Gharbzadegi*] was perhaps the single most important essay published in modern Iranian history. . . . [N]o other single text comes even close to *Westoxication*. . . . The term became so deeply entrenched in Iranian political vocabulary of the 1960s and beyond that even Ayatollah Khomeini used it when he delivered his lectures and wrote his letters and proclamations in Iraq.³⁷

Al-e Ahmad began his remarkable work with a brief definition of *gharbzadegi* as "the aggregate of events in the life, culture, civilization and mode of thought of a people having no supporting tradition, no historical continuity, no gradient of transformation."³⁸ It is not surprising that he depicted the resulting state of "rootlessness" as a "disease, an accident from without, spreading in an environment rendered susceptible to it."³⁹ Westernization, in other words, was a disease that had infected Iranian society and debased the culture and the life of the Iranian people.

It is important to note, however, that while he was sharply critical of the cultural uprootedness of those secular intellectuals who believed that modernization and Westernization were identical concepts and that Islam must be abandoned in the name of progress,⁴⁰ Al-e Ahmad did not stand for some form of "nativism" or a merely emotional anti-Western polemic. For, as has already been mentioned, Al-e Ahmad was certainly attracted to some aspects of Western thought and civilization, and he felt that Jean Paul Sartre in particular was worthy of admiration, significant as far as Al-e Ahmad was concerned because Sartre was the iconoclastic philosopher who turned down the Nobel Prize, embraced the Cuban revolution, and passed out revolutionary newspapers on the streets of Paris as late as 1968.⁴¹ At the same time, and no less significant, Al-e Ahmad was critical of the traditional Shi'a 'ulama because "since the onslaught of the first wave of the machine [they] drew into their shell and so shut out the outside world,"⁴² while historically they had been the "last citadel of resistance against the Europeans"⁴³ and the imperial domination that they inflicted on the Muslim world.

In addition, Al-e Ahmad maintained that the traditional 'ulama class enjoyed four characteristics that together rendered them far superior as potential or actual leaders of sociopolitical reform to the culturally rootless

secular and Westernized elites. By the very nature of their profession, Al-e Ahmad pointed out, the '*ulama* tended to be men of learning; by virtue of the fact that they were mainly drawn from lower-class background, they tended to be radically minded; for the same reason, they tended to speak the language of the masses and were therefore better and more readily trusted by the people as guardians of the faith.⁴⁴ As he saw it, the "Western onslaught of Colonialism is not merely to plunder the raw mineral, material and human powers . . . from the colonies [but] also devastate the language, the customs, the music, the ethics, and the religion of the colonized lands."⁴⁵ Al-e Ahmad concluded, therefore, that Islam and the Shi'a '*ulama* were bound to be Iran's most effective "vacine" against the pandemic of *gharbzadegi*.⁴⁶

By contrast, the secular intellectuals, Al-e Ahmad said in his long essay "On the Services and Treasons of the Intellectuals" that he wrote after Ayatollah Khomeini's 1963 uprising and its bloody suppression, "were a spineless bunch of self-centred hypocrites" who could only look to "The West" for hopes, aspirations and guidance.⁴⁷ By way of illustration, Al-e Ahmad bitterly recounted the way in which on a particular occasion the BBC attacked the shah and his position seemed shaky, and many of the secular intellectuals jumped on the bandwagon: joining the Tudeh Party in droves and condemning religion as reactionary and the government as despotic.⁴⁸ Then during the nationalization of oil episode, the Tudeh Party, instead of supporting Mussadeq, treacherously opposed the national cause and busied itself trying to safeguard the Iranian oil fields in the north for their Russian comrades.⁴⁹

In due course, both the Tudeh Party and the National Front were defeated, the reason being, Al-e Ahmad maintained, "that all these gentlemen have ventured into the battlefield of politics with imported ideas: Bragging about communism and socialism . . . [without] even trying to conform those "isms" to the local conditions. . . . [Meanwhile, they] completely disregarded the [*'ulama*].⁵⁰ However, Al-e Ahmad pointed out, whenever the two groups, the '*ulama* and the modern intelligentsia, joined hands, as happened during the Tobacco Revolt (1890–1891), the Constitutional Revolution (1906–1911), and to a lesser extent, during the nationalization of oil (1951), success, or a considerable degree thereof, was achieved.

But it was not only to Iranian experience that Al-e Ahmad looked for historical evidence to buttress his argument about the vital importance of Islam and the indispensability of a strategic alliance between the '*ulama*

and the modern intelligentsia for the attainment of liberation from internal tyranny and external domination. "If we look at it from a Marxist point of view," he wrote:

[I]t is a time that "religion = opium of the masses" is still a universal truism for communist parties who wish to substitute [for religion] another sacred tradition. But take a look at Ghandi's strategies. In India he waged a war against colonialism with the aid of religion. Or [consider] what the Vietnamese Buddhists did in helping the Viet Cong; or what is happening in the European confusion with the participation of the left wing of the [Christian] church [in politics] or what went on in Algeria to get rid of the French.⁵¹

Beyond the important and basically political issues of liberation from internal oppression and external domination, Al-e Ahmad was concerned with laying the foundations of an appropriate and authentic modernity that would express respect and be true to the Islamic and Iranian roots and traditions of the people of Iran. Al-e Ahmad's return to Islam after having realized, before most, that "Soviet Russia [was] no longer the vanguard of world revolution" and that Soviet industry was as greedy and exploitative as that of America,⁵² was certainly not another case of "nativism." Rather, it was an expression of his yearning for "deliverance from the evil of imperialism and toward the preservation of national identity, a way toward human dignity, compassion, justice, reason and virtue. Jalal had need of such a religion."⁵³ It may be added in this connection that Al-e Ahmad had significantly (though perhaps somewhat simplistically) depicted himself as an "Easterner with his feet planted firmly in tradition eager to make a two or three hundred year leap"⁵⁴ into a future where he and his people, in full consciousness of and commitment to their Islamic faith and Iranian culture, will have attained a modernity and a state of scientific and technological advancement such that they will never again be "routed"⁵⁵ or taken advantage of by others as had happened hitherto.

Be that as it may, Al-e Ahmad did undoubtedly succeed in shaping and laying some of the most important building blocks of a process that was continued after his death in 1969 by 'Ali Shari'ati (1933–1977), Morteza Motahhari (1920–1979), Sayyid Mahmud Taleqani (1910–1979), and Mahdi Bazargan (1907–1995), among others, and was to culminate in the Islamic Revolution of 1979, one of the most remarkable popular risings of

the twentieth century. The immediate effect on the Iranian scene was the dramatic overthrow of the shah, Muhammad Reza Pahlavi, and his oppressive secular regime and the establishment, instead, of the first revolutionary Islamic (specifically Shi'i) state in modern times.⁵⁶ But the revolution of 1979 had many far-reaching effects, some of which continue to be felt across the Muslim world and beyond, including in Western academic circles, where the secularization thesis, which had for many decades been regarded as an almost self-evident truth, has consequently been profoundly called into question. For many the thesis has in fact been discarded as patently false considering the accumulated evidence from around the globe, especially since the revolution of 1979.

Meanwhile, in other parts of the Muslim world, the most pressing issues were not those of atheism, skepticism, or secularism—important though these undoubtedly were throughout—but the primarily political issues of how to deal with colonial administrations and, especially in French and Spanish colonies, those policies aimed at the active and systematic assimilation of the colonized subjects into the cultures of their colonial masters. The deep divisions that inevitably occurred among colonized Muslim communities over such highly sensitive and emotive issues necessarily complicated matters for all concerned.

In Algeria, for example, French-educated Muslims seeking full equality within a France of which Algeria was to be part and parcel accepted the principle of assimilation and in 1912 formed a party called Young Algeria with a view to pursuing the realization of this objective.⁵⁷ Since assimilationist policies necessarily involved the undermining of the local Islamic culture, however, they were predictably and strongly opposed by many Algerians on both nationalist and Islamic grounds. In the context of the prolonged and heated debates that ensued between the two opposed sides, Ferhat 'Abbas, speaking for the assimilationists in 1936, made an often-quoted speech in which he famously said:

If I had discovered an Algerian nation, I would be a nationalist and I would not blush for it as though it were a shame . . . but I will not die for the Algerian homeland, because such a homeland does not exist: I have not found it. I have questioned history, I have asked the living and the dead. I have visited the cemeteries, but no one has told me of it. . . . [W]e have

once and all dispensed the storm clouds of fantasy in order to tie for ever our future to that of the work of France in this land.⁵⁸

Shaykh 'Abd al-Hamid ibn Badis (Ben Badis, 1889–1940), the founder in 1931 of the Association of Algerian 'Ulama, responded to Ferhat 'Abbas's speech with a no less memorable statement in which he emphasized the Islamic character of Algeria and the fact that it was not France and did not wish to be France:

We have examined the records of history as well as the present situation in existence today. And we have found the Muslim Algerian nation has been created like all other nations with a history which is garlanded with noble deeds; it has its religious and linguistic unity as well as its distinctive culture and traditions of which some are good while others are bad—like all other nations. Most importantly this Muslim Algerian nation is not France; cannot be France and has no desire to be France. It is indeed completely different from France: in language, morals, ethnicity and faith.⁵⁹

Finding out that the way to assimilation was blocked especially by the French settler colonists and that it, in any case, did not secure for the Westernized Muslims the equality under French law which they aspired to, Ferhat 'Abbas in due course abandoned assimilation and joined hands with the nationalists and his former critics. He in fact became a prominent leader of the Front de Libération Nationale.

As Georgetown University Islamicist John O. Voll rightly pointed out, the political evolution of Algeria had thus effectively removed the possibility of a secularized individualist style of Islam such as the assimilationists had proposed.⁶⁰ Even Franz Fanon, the Martiniquan ideologue of the Algerian revolution, saw French efforts to unveil Algerian women as a plot to destroy the Algerian nation.⁶¹

In India, as in Algeria, the Muslim community, after the collapse of the 1857 uprising against British rule, was divided between those who accepted the reality of British dominance and felt that cooperation with the British would be the best course for them to proceed and those who rejected this and continued looking for alternative ways of action. The most strongly Westernizing group among the pro-British section of the Muslim community was led by Sayyid (later, Sir Sayyid) Ahmad Khan Bahadur (1817–1898). Having worked for the (British) East India

Company before the uprising of 1857, Ahmad Khan subsequently emerged as a believer not only in cooperation with the British but also, and perhaps even more importantly, in the necessity of integrating Western and Islamic thought. With this end in mind, he proceeded to translate Western works into Indian languages and wrote a commentary on the Qur'an in which he elaborated on his conviction that nature as the work of God was identical with the Qur'an, which is the word of God. Perhaps even more important, Ahmad Khan established the Mohammadan Anglo-Oriental College, which later became the Muslim University of Aligarh.⁶²

For his efforts in all these respects and especially for his cooperation with the British and his willingness to borrow heavily from the West while abandoning much of the Indian Muslim heritage,⁶³ Ahmad Khan was strongly criticized by Sayyid Jamal al-Din al-Afghani (1839–1897) during his stay in India from 1879 to 1882, where he published eight articles as well as his famed "Refutation of the Materialists," and in *al-Urwa al-Wuthqa*, the journal that al Afghani and his disciple Muhammad 'Abdu published during his sojourn in Paris, from 1883 to 1884.⁶⁴

Although many Muslims had their reservations about Ahmad Khan and some were absolutely critical of his program, evidently few were willing to openly back Afghani's basically anti-British campaign. This was partly because educated Muslims were still largely dependent on the government for employment and also because the British government of India had by then increasingly tended to favor Muslims as a counterweight against the predominantly Hindu-backed nationalist movement. It was not until the early decades of the twentieth century when anti-British feelings among Muslims had again begun to rise that educated Muslims began to openly voice their criticisms of Ahmad Khan and his program, and take up Afghani's call for Muslim cooperation with Hindu nationalists against British rule in India and in support of the Ottoman caliphate abroad.⁶⁵

Meanwhile a new generation of modern-educated Muslims had arisen. Prominent among these was Muhammad Iqbal (1875–1938). A poet and mystic by temperament, Iqbal studied philosophy at Cambridge and Munich and law in London. His poetry, written in Farsi as well as Urdu, together with his reflections on the Muslim condition in modern times (especially as presented in his six lectures on "The Reconstruction of Religious Thought in Islam") have continued to be of much interest for scholars and others, Muslims and non-Muslims alike.⁶⁶ Of central importance in

his political thought is the idea that *ijtihad* vested in a modern Muslim legislative assembly would go a long way toward the effective restoration of the *shari'a* as a living and dynamic Islamic legal system.⁶⁷ Though he was not unappreciative of the positive aspects of the Turkish experiment under Atatürk, he criticized Kemalism for having adopted the European idea of separation of church and state without realizing that "it suggests a dualism which does not exist in Islam."⁶⁸ No less important, Iqbal is widely regarded as the spiritual father of a separate home for the Muslims of India in Pakistan. He was the most outstanding figure among the large number of primarily Western-educated Muslim scholars and activists who strove for the reassertion of the intellectual and communal identity of their fellow Muslims in the subcontinent during the difficult and trying decades of the mid-twentieth century.

Even if the roles and contributions of the traditional *'ulama*, the Sufi *Tariqas*, and such modern revivalist movements as the Muslim Brotherhood and *Jama'at-i Islami*, which are commonly regarded as the prime movers in the contemporary Islamic resurgence,⁶⁹ were to be completely left out of any assessment of the overall situation in the Muslim world today, it should still be clear from even a brief survey of attitudes and trends among Western- or modern-educated individuals and groups (some of whom had previously been attracted to various Western "isms," including skepticism and atheism) that belief in Islam as a faith and a way of living is now demonstrably strong and vibrant across the Muslim world.

Considering the same phenomenon in relation to the secularization thesis, London School of Economics professor Ernest Gellner commented: "[T]here is one real, dramatic and conspicuous exception to [the secularization thesis]: Islam. To say that secularization prevails in Islam is not contentious. It is simply false. Islam is as strong now as it was a century ago. In some ways, it is probably much stronger."⁷⁰ Returning to the subject a little later on, Gellner emphasizes and elaborates on the point by saying that Islam "totally and effectively defies the secularization thesis . . . [and] there is no indication that it will succumb to secularization in the future either."⁷¹

The principal findings of the forty-four nations survey that was carried out by the Pew Research Center in June 2003 may usefully be recalled at this juncture. People across the Muslim world place a high value on freedom of expression, freedom of the press, a multiparty system, and equal treatment under the law; many of the Muslim publics polled expressed a stronger desire for democratic freedom than the public in some nations in Eastern Europe, notably Russia and Bulgaria, and at the same time also

support prominent, and in some cases expanding, roles for Islam and religious leaders in the political life of their countries.

For those who find this characterization somewhat confusing and still contend that secularization is a necessary precondition of democratization and respect for human rights, several points may be well worth pondering. First among these is the fact that none of the many avowedly secular regimes that has been established—as a rule by means of military coup—anywhere in the Muslim world, including the most radically secularist among them—Mustafa Kemal's in Turkey, that of Reza Shah and his son Muhammad Reza Shah Pahlavi in Iran, and the existing Tunisian regime of Ben Ali—has been remotely democratic or particularly respectful of the human rights of individuals, minorities, or others under their control. Nor does any of them today show any sign of moving beyond the stage of being, at best, a so-called liberalized autocracy. By comparison, even the most authoritarian of the traditional monarchies and tribal shaykhdoms, by virtue of their traditionalism and because they, on the whole, do not go as far in the use of advanced technologies of torture and oppression as their usually more modernized and sophisticated secular counterparts, tend to be generally less authoritarian and oppressive than the secular dictatorships in question.

The second point that needs to be borne in mind in this connection is that even in Western European countries where secularism first evolved and the separation of church and state is supposed to be an established and nonnegotiable principle, theory and practice do not always coincide. It is well known, for instance, that in several Western European democracies, including Italy, Germany, and the Netherlands, Christian Democratic Parties have for decades now either formed governments or led opposition. In the United Kingdom the monarch is not only the head of the state but also of the Church of England and holds responsibility as "Defender of the Faith." The laws of blasphemy furthermore support the defense of the official religion of the state but not other faiths. The papacy, especially under the exceptionally able leadership of Pope John Paul II, has in the meantime continued, in cooperation with others, to accumulate resounding political—as well as religious—successes, not least among which in recent decades have been the historic uprising of Polish shipbuilders at Gdansk, the subsequent fall of the Berlin Wall, and, finally, the collapse of the Soviet system as a whole.⁷²

These and similar developments, especially at a time when most of the world's religious traditions, including Buddhism, Sikhism, and Hinduism,

have been experiencing remarkable movements of revival and renewal,⁷³ strongly suggest that where democratization and human rights are concerned, what matters above all is not whether the existing system at any time or place is secular or religious, but whether it facilitates the better and more effective protection and promotion of human rights. In Kateřina Dalacoura's opinion, it is more important and fruitful, when thinking about human rights, "to draw the line not between secular and non-secular worldviews, but between one which respects the inherent worth of humans and their inalienable rights even if that is encompassed in a *metaphysical or religious framework*, and a worldview that does not, be it religious or secular."⁷⁴

Given the above considerations, it is not surprising that many observers, non-Muslims as well as Muslims, have come to the conclusion that, as one Canadian analyst has put it, "It must be Islamic democracy or it will die."⁷⁵ According to New York University law professor Noah Feldman, speaking somewhat like Gellner about the resilience of Islam and Islam's persistent power in the politics of the Muslim world and systematically exploring the rich variety of Islamic democracy, there is a necessity that is in the interest of both the United States and the Muslims of the world to encourage and facilitate the spread of democracy across the Muslim world.⁷⁶

Muslims, particularly those who have long suffered the rigors of myriad forms of oppression and persecution at the hands of authoritarian regimes, have for decades been campaigning for the introduction of long overdue democratic reforms and the establishment of just systems of governance wherein the rights and freedoms of citizens would be safeguarded. Frequently precluded from the exercise of political power, especially when they were allowed to contest elections and happened to win too many seats for the comfort of incumbent dictatorships, many moderate Islamists, rejecting violence on the one hand, and refusing to retire into private life on the other, have concentrated on the building and managing of professional organizations as well as social and charitable institutions, all of which are core elements in civil society and thus in the democratization process.

Needless to say, however, the incumbent authoritarian regimes, and those who benefit from their continued monopoly of power and the privileges that go with it, will be most reluctant to allow those whom they have long oppressed and precluded from participating in governing their

countries to do so any time soon. They would almost certainly not be willing to give up voluntarily power altogether. The road to the establishment of democracy, and hence to the effective promotion and protection of human rights throughout the Muslim world, is likely to be long and arduous. There is, however, no viable alternative to genuine, home-grown democracy.

CONCLUDING REMARKS

THE PROMULGATION OF THE Universal Declaration of Human Rights on December 10, 1948, was one of the great triumphs of humanity in the period since World War II and the tragedies of Hiroshima and Nagasaki. The global significance of the Declaration and its impact on both world opinion and the actual conduct of governments, individuals, and organizations around the world have been further augmented through the adoption and promulgation by the United Nations as well as other regional and international bodies of successive generations of human rights declarations, covenants, and treaties. These in principle provide for the protection and promotion of human rights in almost every conceivable facet of human life. The creation of the office of United Nations Commissioner for Human Rights in 1993 was a particularly important landmark in the development of measures necessary for the effective implementation of the elaborate structure of human rights agreements that have thus been created.

There is no doubt that as a result of the many important steps and measures that have been taken since the promulgation of the Universal Declaration, much has been accomplished in the promotion and protection of human rights around the world. The significance of this important fact was dramatized for the whole world by the arrest on December 11, 1998, almost fifty years to the day after the launching of the Declaration, of Chile's General Augustino Pinochet for investigation and trial in connection with serious violations of human rights committed during his

dictatorial rule as president of his country. It was thus demonstrated for the first time that the hitherto almost sacred principle of sovereign immunity could no longer be allowed to mean sovereign impunity.

These achievements notwithstanding, however, a profoundly deep sense of dissatisfaction, frustration, and downright disillusionment continues to be felt worldwide as a result of the further fact that while many crimes involving violations of human rights have often been detected and their perpetrators brought to justice, many others have not. This is not merely because of incompetence or inefficiency on the part of the governments and law enforcement agencies concerned, but as a result of moral failure, lack of integrity, and political partisanship. Duplicity, double standards, and selectivity in the implementation of human rights and the upholding of the rule of law, both within states and at the international level, continue to be among the most corrosive factors that make for the erosion of public confidence in the validity of human rights as guiding principles for humanity and in the credibility of those who often speak loudest about them and purport to be in the forefront among the protagonists of democracy, the rule of law, and human rights while their deeds fall far short of their claims.

In the circumstances, it is not surprising that many of those who, despite having encountered numerous disappointing experiences remain convinced of the value and importance of human rights, have for many years persisted in working for both the greater refinement of norms and concepts as well as the creation and formulation of appropriate means and strategies for the more consistent and effective protection and promotion of human rights.

Among the most prominent and active campaigners for the further refinement and improvement of the existing international system of human rights, particularly of the International Bill, including the Universal Declaration, have been leaders and spokespersons of the major world religions acting together over a number of issues of common concern in many cases and separately in several other cases and issues. A major issue of concern among the international faith communities is their shared conviction that while religions have historically pioneered some of the most important building blocks of human rights, religions have largely, for historical and ideological reasons that date back to the French Revolution and the European Enlightenment of the eighteenth century, been effectively sidetracked—not only in the Universal Declaration, but also in the

many covenants, conventions, and declarations that have been promulgated since.

Closely related to this basic concern is the persistent belief, especially among ardent secularists, that religions, far from being considered bona fide sources of human rights, should, in light of Western experience, be universally regarded as obstacles to promotion of human rights. For their part, the international faith communities feel that the major limitations confronting the existing international system of human rights are largely traceable to the absence, in both its specific provisions and its overall structure and outlook of the fundamental ethical and spiritual dimensions that constitute the foundations and substance of religious faith. The document "A Universal Declaration of Human Rights by the World's Religions," which was published by the Project on Religion and Human Rights in 2003 gives a clear idea of what is in effect an alternative "Declaration" as perceived by those leaders and spokespersons of the international community of world faiths that it represents.

In Part I of this book, an attempt has been made to survey the Islamic perspective on human rights. This has been accomplished not so much by trying to match various articles of the Universal Declaration with excerpts from the Qur'an and the *Sunna*, which has been done with varying degrees of success in the five or six decades since 1948, but by considering the subject in the wider context of Islam's worldview, especially as revealed in the Qur'an on the one hand, and as it has been variously understood or expressed in the course of Islamic civilization on the other. Among the various topics that have been highlighted is the distinctively multireligious, multiethnic, and multicultural nature of Islamic civilization and the metaphysical foundations of its pluralism as indicated in the Qur'an—the theocentric, and yet humanistic, nature of the Islamic tradition of human rights (and obligations). Emphasis has also been placed on human rights in the Islamic tradition as an integral part of a cosmic and all-encompassing system that involves, in addition to human beings, nature in both its animate and inanimate forms and reaches out beyond the worlds of created beings to the Lord-Creator of all: God. The interplay of theory and practice in relation to the rights and actual life experience of women and minorities has been singled out for closer scrutiny. The consequences for human rights theory and practice in Islam from the decline of classical Islamic civilization and the subsequent domination of the Muslim world by various colonial powers, together with a review of some

of the efforts at revival and reconstruction that have been made, have also been discussed. Finally, the search for reform in the political and socio-cultural aspects of contemporary Muslim societies, a process that goes back to the early decades of the nineteenth century, has been considered.

The emergence in more recent times across the whole of the Muslim world of a dominant trend that strongly favors democratic systems of governance that ensure civil liberties and political rights and, at the same time, support a prominent and expanding role for Islam and Islamic thinkers in political life has been highlighted. This seems to be a trend that, more than any other, is likely to determine the future. However, it cannot be assumed that this or any other formula that favors democratic principles and human rights will necessarily prevail in a smooth and orderly fashion. Internally, the incumbent authoritarian regimes, whether military or otherwise, are unlikely to relinquish their power without a struggle, while traditional regimes would almost certainly continue fighting the rearguard battles in which they have long been engaged, by using obviously archaic and outmoded ideological weapons that were mostly forged during the centuries of decline in Islamic thought and civilization. This has amounted to bestowing a veneer of legitimacy on what was frankly described as government by usurpation (*al-imara bi'l ghalaba*), distinct from *shura* and public consent.

Meanwhile, externally aspirant and nascent democracies, whether in the Muslim world or elsewhere, can realistically hope to flourish only where the international system is so constituted and managed that democratic principles, the rule of law, and human rights are consistently respected and effectively upheld by the big and powerful players, as well as by the small and the fledgling.

Part II

Human Rights Resources in the Islamic Tradition

SOURCES ILLUSTRATIVE OF HUMAN RIGHTS IN THE ISLAMIC TRADITION

SELECTIONS FROM THE QUR'AN

THE QUR'AN IS THE HIGHEST and most ancient source of authority in Islam. It is held to be revealed truth from God to the Prophet Muhammad. Its teachings, which date from the seventh century, touch upon numerous issues considered under the topics of human rights. Below is a sampling of passages.

Mankind and Human Dignity

- O men! Behold, we have created you all out of a male and female, and have made you into nations and tribes, so that you might come to know one another. Verily the noblest of you in the sight of God is the one who is most deeply conscious of Him. (Surah 49:13)
- Now, Indeed, We have conferred dignity on the children of Adam, and borne them over land and sea, and provided for them sustenance out of the good things of life and favored them far above most of Our creation. (Surah 17:70)
- And among His wonders is the creation of the heavens and the earth, and the diversity of your tongues and colors: for in this, behold, there are messages indeed for all who are possessed of [innate] knowledge! (Surah 30:22)

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- And among His wonders is the creation of the heavens and the earth, and the diversity of your tongues and colors: for in this, behold, there are messages indeed for all who are possessed of [innate] knowledge! (Surah 30:22)

- And Lo! Thy Sustainer said unto the angels: "Behold I am about to establish upon earth one who shall inherit it."

They said: "Wilt thou place upon it such as will spread corruption thereon and shed blood—whereas it is we who extol Thy limitless glory and praise Thee and hallow Thy name?"

[God] answered: "Verily, I know that which you do not know."

And he imparted unto Adam the names of all things: then He brought them within the kin of the angels and said: "Declare unto me the names of these [things], if what you say is true."

They replied: "Limitless art Thou in Thy glory! No knowledge have we save that which Thou hast imparted unto us. Verily, Thou alone art all-knowing, truly wise."

Said He: "O Adam, convey unto them the names of these [things]."

And as soon as [Adam] had conveyed unto them their names, [God] said: "Did I not say unto you, 'Verily, I alone know the hidden reality of the heavens and the earth, and know all that you bring into the open and all you would conceal?'"

And when We told the angels, "Prostrate yourselves before Adam!"—they all prostrated themselves, save Iblis, who refused and gloried in his arrogance: and thus he became one of those who deny the truth.

And We said: "O Adam, dwell thou and thy wife in this garden, and eat freely thereof, both of you, whatever you may wish; but do not approach this one tree, lest you become wrongdoers."

But Satan caused them both to stumble therein, and thus brought about the loss of their erstwhile state. And so we said: "Down with you, [and be henceforth] enemies unto one another; and on earth you shall have your abode and livelihood for a while!"

Thereupon Adam received words [of guidance] from his Sustainer, and He accepted his repentance: for, verily, He alone is the Acceptor of Repentance, the Dispenser of Grace. [For although] We did say, "Down with you all from this [state]," there shall, none the less, most certainly come unto you guidance from Me: and those who follow my guidance need have no fear, and neither shall they grieve; but those who are bent on denying the truth and giving the lie to Our messages—they are destined for the fire, and therein shall they abide. (Surah 2:30–39)

- O mankind! Be conscious of your Sustainer, who has created you out of one living entity, and out of it created its mate, and out of the two

spread abroad a multitude of men and women. And remain conscious of God, in whose name you demand [your rights] from one another, and of these ties of kinship. Verily, God is ever watchful over you! (Surah 4:1)

Islam and Other Faiths:

- There shall be no coercion in matters of faith. Distinct has now become the right way from [the way of] error: hence, he who rejects the powers of evil and believes in God has indeed taken hold of a support most unfailing, which shall never give way: for God is all-hearing, all-knowing. (Surah 2:256)
- Say: "We believe in God, and in that which has been bestowed from on high upon us, and that which has been bestowed upon Abraham and Ishmael and Isaac and Jacob and their descendents, and that which has been vouchsafed to all the [other] prophets by their Sustainer: we make no distinction between any of them. And it is unto Him that we surrender ourselves." (Surah 2:136)
- The Apostle, and the believers with him, believe in what has been bestowed upon him from on high by his Sustainer: they all believe in God, and His angels, and His revelations, and His apostles, making no distinction between any of His apostles and they say: "We have heard and we pay heed. Grant us thy forgiveness, O our Sustainer, for with thee is all journeys' end!" (Surah 2:285)
- Verily, as for those who have attained to faith [in this divine writ], and those who follow the Jewish faith, and the Sabians, and the Christians, and the Magians, and those who are bent on ascribing divinity to aught but God, verily God will decide between them on Resurrection Day: for behold, God is witness unto everything. (Surah 22:17)
- And had thy Sustainer so willed, He could surely have made all mankind one single community: but [He willed it otherwise, and so] they continue to hold divergent views. (Surah 11:118–120)
- Call thou [all mankind] unto thy Sustainer's path with all wisdom and goodly exhortation, and argue with them in the most kindly manner: for, behold, thy Sustainer knows best as to who strays from His path, and best knows He as to who are the right-guided. (Surah 16:125)

- As for such [of the unbelievers] as do not fight against you on account of your faith, and neither drive you out from your homelands, God does not forbid you to deal kindly with them and to behave towards them with full equity: for, verily, God loves those who act equitably. (Surah 60:8)
- And do not argue with the followers of earlier revelations otherwise than in a most kindly manner—unless it be such of them as are bent on evildoing—and say: “We believe in that which has been bestowed from on high upon us, as well as that which has been bestowed upon you: for our God and your God is one and the same, and it is unto Him that We [all] surrender ourselves.” (Surah 29:46)

Women and Family Relations

- O mankind! Be conscious of your Sustainer, who has created you out of one living entity, and out of it created its mate, and out of the two spread abroad a multitude of men and women. And remain conscious of God, in whose name you demand [your rights] from one another, and of these ties of kinship. Verily, God is ever watchful over you! (Surah 4:1)
- And among His wonders is this: He creates for you mates out of your own kind, so that you might incline towards them, and He engenders love and tenderness between you: in this, behold, there are messages indeed for people who think! (Surah 30:21)
- Verily, for all men and women who have surrendered themselves unto God, and all believing men and believing women, and all truly devout men and truly devout women, and all men and women who are true to their word, and all men and women who are patient in adversity, and all men and women who humble themselves [before God], and all men and women who give in charity, and all self-denying men and self-denying women, and all men and women who are mindful of their chastity, and all men and women who remember God unceasingly: for [all of] them has God readied forgiveness of sins and a mighty reward. (Surah 33:35)
- Men shall take full care of women with the bounties which God has bestowed more abundantly on the former than on the latter, and with

what they may spend out of their possessions. And the righteous women are the truly devout ones, who guard the intimacy which God has [ordained to be] guarded. . . . And if you have reason to fear that breach might occur between a [married] couple, appoint an arbiter from among his people and an arbiter from among her people; if they both want to set things aright, God may bring about their reconciliation. Behold, God is indeed all-knowing, aware. (Surah 4:34–35)

- Say: “Who is there to forbid the beauty which God has brought forth for his creatures, and the good things from among the means of sustenance?” Say: “They are [lawful] in the life of this world unto all who have attained to faith—to be theirs alone on Resurrection Day.”

Thus clearly do we spell out these messages unto people of [innate] knowledge. (Surah 7:32)

- O you who have attained to faith! It is not lawful for you to [try to] become heirs to your wives [by holding on to them] against their will; and neither shall you keep them under constraint with a view to taking away anything of what you may have given them, unless it be that they have become guilty, in an obvious manner, of immoral conduct. (Surah 4:19)

- And the divorced women, too, shall have [a right to] maintenance in a goodly manner: this is a duty for all who are conscious of God.

In this way God makes clear unto you His messages, so that you might [learn to] use your reason. (Surah 2:241–242)

- And the [divorced] mothers may nurse their children for two whole years, if they wish to complete the period of nursing; and it is incumbent upon him who has begotten the child to provide in a fair manner for their sustenance and clothing. No human being shall be burdened beyond what he is well able to bear: neither shall a mother be made to suffer because of her child, nor, because of his child, he who has begotten it. And the same duty rests upon the [father's] heir.

And if both [parents] decide, by mutual consent and counsel, upon separation [of mother and child], they will incur no sin [thereby]; and if you decide to entrust your children to foster-mothers, you will incur no sin provided you ensure, in a fair manner, the safety of the child which you are handing over. But remain conscious of God, and know that God sees all that you do. (Surah 2:233)

Children and Parents

- Do not set up any deity side by side with God lest thou find thyself disgraced and forsaken for thy Sustainer has ordained that you shall worship none but Him.

And do good unto [thy] parents. Should one of them, or both, attain to old age in thy care, never say "Ugh" to them or scold them, but [always] speak unto them with reverent speech, and spread over them humbly the wings of thy tenderness, and say: "O my Sustainer! Bestow thy grace upon them, even as they cherished and reared me when I was a child!"

Your Sustainer is fully aware of what is in your hearts. If you are righteous, [He will forgive you your errors]: for behold, He is much forgiving to those who turn unto Him again and again. (Surah 17:22-25)

- And [God says] "We have enjoined upon man goodness towards his parents: his mother bore him by bearing strain upon strain, and his utter dependence on her lasted two years: [hence, O man] be grateful towards me and towards thy parents, [and remember that] with Me is all journeys' end.

"[Revere thy parents;] yet should they endeavor to make thee ascribe divinity, side by side with me, to something which thy mind cannot accept [as divine], obey them not; but [even then] bear them company in this world's life with kindness, and follow the path of those who turn towards Me. In the end, unto Me you all must return; and thereupon I shall make you [truly] understand all that you were doing [in life]." (Surah 31:14-15)

- Say: "Come, let me convey unto you what God has [really] forbidden to you:

"Do not ascribe divinity in any way, to aught beside Him; and [do not offend against but, rather] do good unto your parents; and do not kill your children for fear of poverty—[for] it is We who shall provide sustenance for you as well as for them; and do not commit any shameful deeds, be they open or secret; and do not take any human being's life—[the life] which God has declared to be sacred—otherwise than in [the pursuit of] justice: this has He enjoined upon you so that you might use your reason; and do not touch the substance of an orphan—save to improve it—before he comes of age." (Surah 6:151)

- Wealth and children are an adornment of this world's life: but good deeds, the fruit whereof endures forever, are of far greater merit in thy Sustainer's sight, and a far better source of hope. (Surah 18:46)
- And test the orphans [in your charge] until they reach a marriageable age; then, if you find them to be mature of mind, hand over to them their possessions; and do not consume them by wasteful spending, and in haste, ere they grow up. And let him who is rich abstain entirely [from his ward's property]; and let him who is poor partake thereof in a fair manner. And when you hand over to them their possessions, let there be witnesses on their behalf—although none can take count as God does. (Surah 4:6)
- It is ordained for you when death approaches any of you and he is leaving behind much wealth, to make bequests in favor of his parents and [other] near kin in accordance with what is fair: this is binding on all who are conscious of God. And if anyone alters such a provision after having come to know it, the sin of acting thus shall fall only upon those who have altered it. Verily, God is all-hearing, all-knowing.

If, however, one has reason to fear that the testator has committed a mistake or a [deliberate] wrong, and thereupon brings about a settlement between the heirs, he will incur no sin [thereby]. Verily, God is much-forgiving, a dispenser of grace. (Surah 2:180-182)

Justice

- O you who have attained to faith! Be ever steadfast in upholding equity, bearing witness to the truth for the sake of God, even though it be against your own selves or your parents and kinsfolk. Whether the person concerned be rich or poor, God's claim takes precedence over [the claims of] either of them. Do not, then, follow your own desires, lest you swerve from justice: for if you distort [the truth], behold God is indeed aware of all you do! (Surah 4:135)
- O you who have attained to faith! Be ever steadfast in your devotion to God, bearing witness to the truth in all equity; and never let hatred of anyone lead you into the sin of deviating from justice. Be just: this is the closest thing to being God-conscious. And remain conscious of God: verily, God is aware of all that you do. (Surah 5:8)

- Behold, God enjoins justice, and the doing of good, and generosity towards [one's] fellow men; and He forbids all that is shameful and all that runs counter to reason; as well as envy; [and] He exhorts you [repeatedly] so that you might bear [all this] in mind. (Surah 16:90)

- Say "Come, let me convey unto you what God has [really] forbidden to you:

"Do not ascribe divinity, in any way, to aught beside Him; and [do not offend against but, rather,] do good unto your parents; and do not kill your children for fear of poverty—for it is We who shall provide sustenance for you as well as for them; and do not commit any shameful deeds, be they open or secret; and do not take any human being's life- [the life] which God has declared to be sacred—otherwise than in [the pursuit of] justice: this has He enjoined upon you so that you might use your reason." (Surah 6:151)

[On the Day of Judgment,] every human being will be held in pledge for whatever [evil] he has wrought. (Surah 74:38)

- Shun, then, [all that God has forbidden and, most of all,] the loathsome evil of idolatrous beliefs and practices; and shun every word that is untrue, [inclining] towards God, [and] turning away from all that is false, without ascribing divine qualities to aught besides Him: for He who ascribes divinity to aught but God is like one who is hurtling down from the skies—whereupon the birds carry him off, or the wind blows him away onto a far-off place. (Surah 22:30)
- Whoever chooses to follow the right path, follows it but for his own good; and whoever goes astray, goes astray but to his own hurt; and no bearer of burdens shall be made to bear another's burden.

Moreover, We would never chastise [any community for the wrong they may do] ere we have sent an apostle [to them]. (Surah 17:15)

Business and Business Ethics

- And He has made subservient to you, [as a gift] from Himself, all that is in the heavens and on the earth: in this, behold, there are messages indeed for people who think! (Surah 45:13)

- And so, partake of all the lawful, good things which God has provided for you as sustenance, and render thanks unto God for His blessings, if it is [truly] Him that you worship. (Surah 16:114)

- . . . and who, whenever they spend on others, are neither wasteful nor niggardly but [remember that] there is always a just mean between those [two extremes]. (Surah 25:67)

- And give his due to the near of kin, as well as to the needy and wayfarer, but do not squander [thy substance] senselessly. Behold, the squanderers are, indeed, of the ilk of the Satans—inasmuch as Satan has indeed proved most ungrateful to his Sustainer. (Surah 17:26–27)

- Verily, those who have attained to faith and do good works, and are constant in prayer, and dispense charity—they shall have their reward with their Sustainer, and no fear need they have, and neither shall they grieve.

O you who have attained to faith! Remain conscious of God, and give up all outstanding gain from usury, if you are [truly] believers; for if you do it not, then know that you are at war with God and His Apostle. But if you repent, then you shall be entitled to [the return of] your principal: you will do no wrong, and neither will you be wronged. If, however, [the debtor] is in straitened circumstances, [grant him] a delay until a time of ease; and it would be for your own good—if you but knew it—to remit [the debt entirely] by way of charity. (Surah 2:277–280)

Woe unto those who give short measure: those who, when they are to receive their due from [other] people, demand that it be given in full—but when they have to measure or weigh whatever they owe to others, give less than what is due! (Surah 83:1–3)

- O you who have attained to faith! Whenever you give or take credit for a stated term, set it down in writing. And let a scribe write it down equitably between you; and no scribe shall refuse to write as God has taught him: thus shall he write. And let him who contracts the debt dictate; and let him be conscious of God, his Sustainer, and not weaken anything of his undertaking. And if he who contracts the debt is weak of mind or body, or is not able to dictate himself, then let him who watches over his interests dictate equitably. And call upon two of your men to act as witnesses; and if two men are not available, then a man and two women from such among you as are

acceptable as witnesses, so that if one of them should make a mistake, the other could remind her. And the witnesses must not refuse [to give evidence] whenever they are called upon.

And be not loath to write down every contractual provision; be it small or great, together with the time at which it falls due; this is more equitable in the sight of God, more reliable as evidence, and more likely to prevent you from having doubts [later]. If, however, [the transaction] concerns ready merchandise which you transfer directly unto one another, you will incur no sin if you do not write it down.

And have witnesses whenever you trade with one another, but neither scribe nor witness must suffer harm; for if you do [them harm], behold, it will be sinful conduct on your part. And remain conscious of God, since it is God who teaches you [herewith]—and God has full knowledge of everything. (Surah 2:282)

- O you who have attained to faith! Be true to your covenants! (Surah 5:1)

Ethics in Everyday Life

- O you who have attained to faith! Remain conscious of God, and be among those who are true to their word! (Surah 9:119)
- [And let there] grow out of you a community [of people] who invite unto all that is good, and enjoin the doing of what is right and forbid the doing of what is wrong: and it is they, they who shall attain to a happy state! (Surah 3:104)
- And vie with one another to attain your Sustainer's forgiveness and to a paradise as vast as the heavens and the earth, which has been readied for the God conscious who spend [in His way] in time of plenty and in time of hardship, and hold in check their anger, and pardon their fellow-men because God loves the doers of good. (Surah 3:134)
- O children of Adam! Beautify yourselves for every act of worship, and eat and drink [freely], but do not waste: verily, He does not love the wasteful!

Say: "Who is there to forbid the beauty which God has brought forth for His creatures, and the good things from among the means of sustenance?" (Surah 7:31–32)

- ... and who give food—however great be their own want of it—unto the needy, and the orphan, and the captive, [saying in their hearts,] "We feed you for the sake of God alone: we desire no recompense from you, nor thanks. (Surah 76:8–9)
- [W]hen you are greeted with a greeting [of peace], answer with an even better greeting, or [at least] with the like thereof. Verily, God keeps count indeed of all things. (Surah 4:86)
- O you who have attained to faith! No men shall deride [other] men: it may well be that those [whom they deride] are better than themselves; and no women [shall deride other] women: it may well be that those [whom they deride] are better than themselves. And neither shall you defame one another, nor insult one another by [opprobrious] epithets: evil is all imputation of iniquity after [one has attained to] faith; and they who [become guilty thereof and] do not repent—it is they, they who are evildoers!
- O you who have attained to faith! Avoid most guesswork [about one another]—for, behold, some of [such] guesswork is [in itself] a sin; and do not spy upon one another, and neither allow yourselves to speak ill of one another behind your backs. Would any of you like to eat the flesh of his dead brother? Nay, you would loath it!
- And be conscious of God. Verily, God is an acceptor of repentance, a dispenser of grace! (Surah 49:11–12)
- O you who have attained to faith! Do not enter houses other than your own unless you have obtained permission and greeted their inmates. This is [enjoined upon you] for your own good, so that you might bear [your mutual right] in mind.
Hence, [even] if you find no one within [the house], do not enter it until you are given leave; and if you are told, "Turn back," then turn back. This will be most conducive to your purity; and God has full knowledge of all that you do.
[On the other hand,] you will incur no sin if you [freely] enter houses not intended for living in but serving a purpose useful to you: but [always remember that] God knows all that you do openly, and all that you would conceal. (Surah 24:27–29)
- [And] tell [those of] My servants who have attained to faith that they should be constant in prayer and spend [in Our way], secretly and openly, out of what We provide for them as sustenance, ere there

come a Day when there will be no bargaining, and no mutual befriending. (Surah 14:31)

- Those who spend their possessions [for the sake of God] by night and by day, secretly and openly, shall have their reward with their Sustainer; and no fear need they have, and neither shall they grieve. (Surah 2:274)

Government and Public Life

- Behold, God bids you to deliver all that you have been entrusted with unto those who are entitled thereto, and whenever you judge between people, to judge with justice. Verily, most excellent is what God exhorts you to do: verily, God is all-hearing, all-seeing! (Surah 4:58)
- [And let there] grow out of you a community [of people] who invite unto all that is good, and enjoin the doing of what is right and forbid the doing of what is wrong; and it is they, they who shall attain to a happy state! (Surah 3:104)
- . . . and who respond to [the call of] their Sustainer and are constant in prayer; and whose rule [in all matters of common concern] is consultation among themselves; and who spend on others out of what We provide for them as sustenance. (Surah 42:38)
- . . . those who, [even] if We firmly establish them on earth, remain constant in prayer, and give in charity, and enjoin the doing of what is right and forbid the doing of what is wrong; but with God rests the final outcome of all events. (Surah 22:41)
- O you who have attained to faith! Pay heed unto God, and pay heed unto the Apostle and unto those from among you who have been entrusted with authority; and if you are at variance over any matter, refer it unto God and the Apostle, if you [truly] believe in God and the Last Day. This is the best [for you], and best in the end. (Surah 4:59)
- And hold fast, all together, unto the bond with God, and do not draw apart from one another. And remember the blessings which God has bestowed upon you: how, when you were enemies, He brought your hearts together, so that through His blessing you became brethren; and [how, when] you were on the brink of a fiery abyss, He saved you from it.

In this way God makes clear His messages unto you, so that you might find guidance. (Surah 3:103)

- [D]o not spread corruption on earth after it has been so well ordered. And call unto Him with fear and longing: verily, God's grace is ever near unto the doers of good! (Surah 7:56)
- And [on that Day] all faces will be humbled before the Ever-Living, the Self-Subsistent Fount of All Being; and undone shall be he who bears [a burden of] evil-doing. (Surah 20:111)

War and Peace

- And fight in God's cause against those who wage war against you, but do not commit aggression—for, verily, God does not love aggressors. (Surah 2:190)
- And how could you refuse to fight in the cause of God and of the utterly helpless: men and women and children who are crying, "O our Sustainer! Lead us forth [to freedom] out of this land whose people are oppressors, and raise for us, out of Thy grace, a protector, and raise for us, out of Thy grace, one who will bring us succour!" (Surah 4:75)
- Fighting is ordained for you, even though it be hateful to you; but it may well be that you hate a thing the while it is good for you, and it may well be that you love a thing the while it is bad for you: and God knows, whereas you do not know. (Surah 2:216)
- And fight against them until there is no more oppression and all worship is devoted to God alone.
And if they desist—behold, God sees all that they do. (Surah 8:39)
- Hence, make ready against them whatever force and war mounts you are able to muster, so that you might deter thereby the enemies of God, who are your enemies as well, and others besides them of whom you may be unaware, [but] of whom God is aware; and whatever you may expend in God's cause shall be repaid to you in full, and you shall not be wronged. (Surah 8:60)
- But if they incline to peace, incline thou to it as well, and place thy

trust in God: verily, He alone is all-hearing, all-knowing! And should they seek but to deceive thee [by their show of peace]—behold, God is enough for thee! He it is who has strengthened thee with His succour, and by giving thee believing followers. (Surah 8:61–62)

- And if any of those who ascribe divinity to aught beside God seeks thy protection, grant him protection, so that he might [be able to] hear the word of God [from thee]; and thereupon convey him to a place where he can feel secure: this, because they [may be] people who [sin only because they] do not know [the truth]. (Surah 9:6)

SOURCE: See *The Message of the Qur'an*, Muhammad Asad, trans. (Gibraltar: Dar al-Andalus, 1980), I: 794; 429–430; 8–19; 100–101; 619. II: 64; 507; 334; 416; 28; 856–857; 613. III: 100–101; 619; 105; 54; 645; 109–110; 51–52; 207. IV: 446; 629; 38; 421–422; 102; 198. V: 130–131; 143; 510; 420; 409–410; 198; 910. VI: 766; 558; 63; 139–140; 414; 422; 62; 937. VII: 284; 24–25; 83; 88; 916; 207; 121; 794; 377; 61. VIII: 115; 83; 212; 38–39; 482; 746; 512; 115; 82–83. IX: 41; 118; 249; 47; 244; 256.



SELECTIONS FROM SOURCES OTHER THAN THE QUR'AN

The First Islamic State

ALONG WITH MAKKA and Jerusalem, Madina was one of the first holy cities of Islam, located in western Arabia. Sometimes described as The "Constitution of Madina," this was in effect the constitutional foundation of the first Islamic state. It was a characteristically pluralistic structure. Excerpts from the Charter of Madina (*Sahifat al-Madina*) are presented below.

THE CHARTER OF MADINA

This is a document from Muhammad the Prophet of Allah [governing relations] between the believers and Muslims of Quraysh and Yathrib, and those who followed them and joined them and struggled with them. They are one community (*umma*) apart from all other men. The Quraysh emigrants according to their present custom shall pay the bloodwit within

their number and shall redeem their prisoners with the kindness and justice common among believers.

The Banu 'Auf according to their present custom shall pay the bloodwit they paid in heathenism; every section shall redeem their prisoners with the kindness and justice common among believers. . . .

Believers shall not leave anyone destitute among them by not paying his redemption money or bloodwit in kindness. . . .

The God-fearing believers shall be against the rebellious or him who seeks to spread injustice, or sin or enmity, or corruption between believers; the hand of every man shall be against him even if he be a son of one of them. . . .

Those Jews who follow us will be given help on an equal footing. They shall not be wronged nor shall their enemies be aided.

The Jews shall contribute to the cost of war so long as they are fighting alongside the believers. The Jews of the Banu 'Auf are one community (*Umma*) with the believers: the Jews having their religion and the Muslims having theirs. . . . The same applies to the Jews of Banu al-Najjar, Banu al-Harith, Banu Sa'ida, Banu Jusham, Banu al-Aus, Banu Tha'laba, and the Jafna, a clan of the Tha'laba and the Banu al-Shutayba. . . . None of them shall go out to war save with permission of Muhammad. . . . The Jews must bear their expenses and the Muslims their expenses. Each must help the other against anyone who attacks the people of this document. They must seek mutual advice and consultation. . . . A man is not liable for his ally's misdeeds. The wronged must be helped. The Jews must pay with the believers so long as war lasts. Yathrib shall be a sanctuary for the people of this document. A stranger under protection shall be as his host doing no harm and committing no crime. . . . If any dispute or controversy likely to cause trouble should arise it must be referred to God and to Muhammad the apostle of God. . . . Quraysh and their helpers shall not be given protection. The contracting parties are bound to help one another against any attack on Yathrib. . . . This deed will not protect the unjust and the sinner. . . . God is the protector of the good and God-fearing man and Muhammad is the apostle of God.

SOURCE: Ibn Hisham, *Sirat Rasul Allah*, 351–354. English translation by Alfred Guillaume, *The Life of Muhammad* (Oxford: Oxford University Press, 1995), 231–233.



Prophet Muhammad's Charter to the Christians of Najran

A SECOND CHARTER with similar pluralistic provisions was issued by Prophet Muhammad for the Christian populace of Najran.

The Charter of Najran

To the Christians of Najran and the neighbouring territories, the security of God and the pledge of his Prophet are extended for their lives, their religion and their property—to the present as well as the absent and others besides; there shall be no interference with [the practice of] their faith or their observances; nor any change in their rights or privileges; no bishop shall be removed from his bishopric; nor any monk from his monastery; nor any priest from his priesthood, and they shall continue to enjoy everything great and small as heretofore; no image or cross shall be destroyed; they shall not oppress or be oppressed; they shall not practice the right of blood vengeance as in the Days of Ignorance; no tithes shall be levied from them nor shall they be required to furnish provisions for the troops.

SOURCE: Ahmed Zaki Safwat, *Jamharat Kutub al-'Arab fi 'Usur al-'Arabiyya al-zahira*, 3 vols. (Beirut: n.d.), I:180.



Excerpts from Prophet Muhammad's Farewell Speech

AT THE CONCLUSION of his illustrious career, the Prophet Muhammad made a farewell address. The speech highlighted some of the major principles of Islam concerning, especially, women and the brotherhood of all Muslims.

Some Basic Principles of Islam

O men, listen to my words. I do not know whether I shall ever meet you in this place again after this year. Your blood and your property are sacrosanct until you meet your Lord, as this day and this month are holy. You will surely meet your Lord and He will question you about your works. . . . He who has a pledge let him return it to him who entrusted him with it; all usury is abolished, but you are entitled to keep your capital. Wrong not and you shall not be wronged. God has decreed that there is to be no usury and . . . All blood shed [during the Days of Ignorance, that is, before Islam] is to be left unavenged. . . . Satan despairs of ever

being worshipped in your land, but if he can be obeyed in anything short of worship he will be pleased in matters you may be disposed to think of little account, so beware of him in your [thoughts and all matters pertaining to faith]. . . .

You have rights over your wives and they have rights over you. You have the right that they should not defile your bed and that they should not have in unseemly ways . . . [and] they have the right to their food and clothing with kindness. Treat women graciously and with kindness, for they are virtual captives in your keep though you have taken them only as a trust from God, and you have the enjoyment of their persons by the words of God. . . . O men, I have left with you something which if you will hold fast to you will never fall into error . . . the book of God and the Sunna of His prophet, so give good heed to what I say.

Know that every Muslim is a Muslim's brother, and that the Muslims are brethren. It is only lawful to take from a brother what he gives you willingly, so wrong not yourselves.

SOURCE: Ibn Hisham, *Sirat Rasul Allah*, 1023–1025. English translation by Alfred Guillaume, *The Life of Muhammad* (Oxford: Oxford University Press, 1995), 651–652.



Some Basic Principles of Government in Islam

ABU BAKR WAS a principal scribe and successor to the Prophet as the first caliph. His acceptance speech upon becoming the caliph reflects basic principles of government and human rights.

Abu Bakr's Acceptance Speech

I have been given authority over you even though I am not the best of you. If I do well, help me, and if I do ill, then put me right. The weak amongst you shall be strong in my eyes until I shall by the grace of God secure his right; and the strong amongst you shall be weak in my eyes till I shall by the grace of God wrest the right from him. Should any people desist from fighting in the way of God, then God will smite them with disgrace and humiliation. . . . And whenever wickedness and corruption become widespread among a people, God will cause a calamity to fall upon them all. Obey me as long as I obey God and His apostle, and if I disobey them you owe me no obedience.

SOURCE: Ibn Hisham, *Sirat Rasul Allah*. English translation by Alfred Guillaume, *The Life of Muhammad* (Oxford: Oxford University Press, 1995), 687.



Basic Instructions for the Conduct of War

IN ANOTHER SIGNIFICANT address, Abu Bakr gave specific instructions to Muslim warriors about their conduct of war against the Byzantines in Syria.

Caliph Abu Bakr's Instructions

Stop, O people, that I may give you ten rules to keep by heart! Do not commit treachery, nor depart from the right path. You must not mutilate, neither kill a child or aged man or woman. Do not destroy a palm-tree, nor burn it with fire and do not cut any fruitful tree. You must not slay any of the flock or the herds or the camels, save for your subsistence. You are likely to pass by people who have devoted their lives to monastic services; leave them to that to which they have devoted their lives. You are likely, likewise, to find people who will present to you meals of many kinds. You may eat; but do not forget to mention the name of Allah.

SOURCE: Ibn 'Abd Rabbih, *al-'ad al-Farid*, 7 vols. (Beirut: Dar al-kitab al-'arabi, 1983), IV:247.



Excerpts from a Letter Concerning the Office of Judge

THIS LETTER WAS sent by the second caliph, 'Umar Ibn al-Khattab, to Abu Musa al-Ah'ari, whom he had appointed judge in al-Kufah. It emphasizes some of the basic principles of justice in Islam, including elements of what would later be described as a form of judicial review.

On the Nature of Justice

Understand the depositions that are made before you, for it is useless to consider a plea that is not valid.

Consider all the people equal before you in your court and in your attention, so that the noble will not expect you to be partial [to him or her] and the humble will not despair of [receiving] justice from you.

The claimant must produce evidence; from the defendant, an oath may be exacted.

Compromise is permissible among Muslims, but not any agreement through which [anything which is] forbidden would be permitted, or [anything which is] permitted forbidden.

If you gave judgement yesterday, and today upon reconsideration come to the correct opinion, you should not feel prevented by your first judgement from retracting; for justice is primeval, and it is better to retract [from doing wrong] than to persist in worthlessness.

Use your brain about matters that perplex you and to which neither Qur'an nor Sunna seem to apply. Carefully examine cases and evaluate problems through the comparative study of similar cases.

If a person brings a claim, which he may or may not be able to prove, set a time limit for him. If he brings proof within the time limit, you should allow his claim [to be considered]; otherwise you are permitted to give judgement against him. This is the best way [for keeping clear of] any possible doubt. All Muslims are acceptable as witnesses against each other, except such as have received punishment provided for by the Shari'a, such as are proved to have given false witness, and such as are suspected [of partiality] on [the ground of] client status or relationship. . . .

Avoid fatigue and weariness and annoyance [while dealing with] the litigants.

For establishing justice in the courts of justice, God will grant you a rich reward.

SOURCE: See Ibn Khaldun, *Mugaddima*, trans. F. Rosenthal, 3 vols. (London: Pantheon Books, 1958), I:453-454.



Justice and Mercy in Administration

CALIPH 'ALI IBN Abi Talib's letter to Malik al-Ashtar, whom he had appointed governor of Egypt:

In the Name of God, the Merciful, the Compassionate:

This is that with which 'Ali, the servant of God and Commander of the Faithful, charged Malik ibn al-Harith al-Ashtar in his instructions to him when he appointed him governor of Egypt: to collect its land tax, to war

against its enemies, to improve the condition of the people and to engender prosperity in its region. He charged him to fear God, to prefer obedience to Him (over all else) and to follow what He has directed in His Book—both the acts He has made obligatory and those He recommends—for none attains felicity but he who follows His directions, and none is overcome by wretchedness but he who denies them and lets them slip by. (He charged him) to help God—glory be to Him—with his heart, his hand and his tongue, for He—majestic is His Name—has promised to help him who exalts Him. And he charged him to break the passions of his soul and restrain it in its recalcitrance, for the soul incites to evil, except inasmuch as God has mercy.

Know, O Malik, that I am sending you to a land where governments, just and unjust, have existed before you. People will look upon your affairs in the same way that you were wont to look upon the affairs of the rulers before you. They will speak about you as you were wont to speak about those rulers. And the righteous are only known by that which God causes to pass concerning them on the tongues of His servants. So let the dearest of your treasures be the treasury of righteous action. Control your desire and restrain your soul from what is not lawful to you, for restraint of the soul is for it to be equitous in what it likes and dislikes. Infuse your heart with mercy, love and kindness for your subjects. Be not in the face of them a voracious animal, counting them as easy prey, for they are of two kinds: either they are your brothers in religion or your equals in creation. Error catches them unaware, deficiencies overcome them, [evil deeds] are committed by them intentionally and by mistake. So grant them your pardon and your forgiveness to the same extent that you hope God will grant you His pardon and His forgiveness. For you are above them, and He who appointed you is above you and God is above him who appointed you. God has sought from you the fulfillment of the requirements and he is trying you with them.

Set yourself not up to war against God, for you have no power against His vengeance, nor are you able to dispense with His pardon and His mercy. Never be regretful of pardon or rejoice at punishment, and never hasten [to act] upon an impulse if you can find a better course. Never say, "I am invested with authority, I give orders and I am obeyed," for surely that is corruption in the heart, enfeeblement of the religion and an approach to changes (in fortune). If the authority you possess engenders in you pride or arrogance, then reflect upon the tremendousness of the dominion of God

above you and His power over you in that in which you yourself have no control. This will subdue your recalcitrance, restrain your violence and restore in you what has left you of the power of your reason. Beware of vying with God in His tremendousness and likening yourself to Him in His exclusive power, for God abases every tyrant and humiliates all who are proud.

See that justice is done toward God and justice is done toward the people by yourself, your own family and those whom you favor among your subjects. For if you do not do so, you have worked wrong. And as for him who wrongs the servants of God, God is his adversary, not to speak of His servants. God renders null and void the argument of whosoever contends with Him. Such a one will be God's enemy until he desists or repents. Nothing is more conducive to the removal of God's blessing and the hastening of His vengeance than to continue in wrong doing, for God harkens to the call of the oppressed and He is ever on the watch against the wrongdoers!

SOURCE: *Nahj al-Balagha*, trans. W. Chittick, *A Shi'ite Anthology* (Albany: State University of New York Press, 1981), 68–69.



Concerning the Care of Animals

Abu Hurayra reported that Allah's Messenger (PBUH) said, "While a man was walking he felt thirsty; he therefore went down a well and drank from it. On coming out of the well, he saw a dog panting; so thirsty it was that it kept licking damp soil and mud. The man said 'This [dog] is suffering from the same trying thirst that I experienced.' So he [went down the well], filled his shoe with water, caught hold of it with his teeth and climbed up and watered the dog. Allah thanked him for his (good) deed and granted him forgiveness for all his sins. The people asked, 'O Allah's Messenger! Is there a reward for us in helping even animals?' He replied, 'Yes, there is a reward for helping any living creature.'"

SOURCE: *Sahih al-Bukhari*, Arabic-English by Dr. M. Muhsin Khan (New Delhi: Kitab Bhavan, 1984), III:322–323.



Abu Hurayra, Nafi' and Ibn 'Umar reported that Allah's Messenger (may peace and blessings be upon him) said that a woman was thrown into hell because she kept a cat tied until it died. She had neither provided the cat with food and drink, nor allowed it to go free so that it may eat of the insects of the earth.

SOURCE: *Sahih Muslim*, VII:1215. Translation based on Abdul Hamid Siddiqi's English version of *Sahih Muslim* (New Delhi: Kitab Bhavan, 1987).



A Modern Declaration on Islam and Human Rights

AS OTHER MAJOR declarations emerged from the mid-twentieth century, the member states of the Islamic Conference meeting in Cairo, August 1990, issued the following declaration.

THE CAIRO DECLARATION ON HUMAN RIGHTS

The Member States of the Organization of the Islamic Conference,

Reaffirming the civilizing and historical role of the Islamic Umma which God made the best nation that has given mankind a universal and well-balanced civilization in which harmony is established between this life and the hereafter and knowledge is combined with faith; and the role that this Umma should play to guide a humanity confused by competing trends and ideologies and to provide solutions to the chronic problems of this materialistic civilization.

Wishing to contribute to the efforts of mankind to assert human rights, to protect man from exploitation and persecution, and to affirm his freedom and right to a dignified life in accordance with the Islamic Shari'a.

Convinced that mankind which has reached an advanced stage in materialistic science is still, and shall remain, in dire need of faith to support its civilization and of a self motivating force to guard its rights;

Believing that fundamental rights and universal freedoms in Islam are an integral part of the Islamic religion and that no one as a matter of principle has the right to suspend them in whole or in part or violate or ignore them in as much as they are binding divine commandments, which are contained in the Revealed Books of God and were sent through the last of His Prophets to complete the preceding divine messages thereby making their

observance an act of worship and their neglect or violation an abominable sin, and accordingly every person is individually responsible—and the Umma collectively responsible—for their safeguard.

Proceeding from the above mentioned principles,
Declare the following:

Article 1

- a. All human beings form one family whose members are united by submission to God and descent from Adam. All men are equal in terms of basic human dignity and basic obligations and responsibilities, without any discrimination on the grounds of race, colour, language, sex, religious belief, political affiliation, social status or other considerations. True faith is the guarantee for enhancing such dignity along the path of human perfection.
- b. All human beings are God's subjects, and the most loved by Him are those who are most useful to the rest of His subjects, and no one has superiority over another except on the basis of piety and good deeds.

Article 2

- a. Life is a God-given gift and the right to life is guaranteed to every human being. It is the duty of individuals, societies and states to protect this right from any violation, and it is prohibited to take away life except for a Shari'a prescribed reason.
- b. It is forbidden to resort to such means as may result in the genocidal annihilation of mankind.
- c. The preservation of human life throughout the term of time willed by God is a duty prescribed by Shari'a.
- d. Safety from bodily harm is a guaranteed right. It is the duty of the state to safeguard it, and it is prohibited to breach it without a Shari'a-prescribed reason.

Article 3

- a. In the event of the use of force and in case of armed conflict, it is not permissible to kill non-belligerents such as old men, women and children. The wounded and the sick shall have the right to

medical treatment; and prisoners of war shall have the right to be fed, sheltered and clothed. It is prohibited to mutilate dead bodies. It is a duty to exchange prisoners of war and to arrange visits or reunions of the families separated by the circumstances of war.

- b. It is prohibited to fell trees, to damage crops or livestock, and to destroy the enemy's civilian buildings and installations by shelling, blasting or any other means.

Article 4

Every human being is entitled to inviolability and the protection of his good name and honour during his life and after his death. The state and society shall protect his remains and burial place.

Article 5

- a. The family is the foundation of society and marriage is the basis of its formation. Men and women have the right to marriage, and no restrictions stemming from race, colour, or nationality shall prevent them from enjoying this right.
- b. Society and the State shall remove all obstacles to marriage and shall facilitate marital procedure. They shall ensure family protection and welfare.

Article 6

- a. Woman is equal to man in human dignity, and has rights to enjoy as well as duties to perform; she has her own civil entity and financial independence, and the right to retain her name and lineage.
- b. The husband is responsible for the support and welfare of the family.

Article 7

- a. As of the moment of birth, every child has rights due from the parents, society and the state to be accorded proper nursing, education and material, hygienic and moral care. Both the fetus and the mother must be protected and accorded special care.
- b. Parents and those in such like capacity have the right to choose the right of education they desire for their children, provided they take

into consideration the interest and future of the children in accordance with ethical values and the principles of the Shari'a.

- c. Both parents are entitled to certain rights from their children, and relatives are entitled to rights from their kin, in accordance with the tenets of the Shari'a.

Article 8

Every human being has the right to enjoy his legal capacity in terms of both obligation and commitment. Should this capacity be lost or impaired, he shall be represented by his guardian.

Article 9

- a. The quest for knowledge is an obligation and the provision of education is a duty for society and the State. The State shall ensure the availability of ways and means to acquire education and shall guarantee educational diversity in the interest of society so as to enable man to be acquainted with the religion of Islam and the facts of the universe for the benefit of mankind.
- b. Every human being has the right to receive both religious and worldly education from the various institutions of education and guidance, including the family, the school, the university, the media, etc., and in such an integrated and balanced manner as to develop his personality, strengthen his faith in God and promote his respect for and defence of both rights and obligations.

Article 10

Islam is the religion of unspoiled nature. It is prohibited to exercise any form of compulsion on man or to exploit his poverty or ignorance in order to convert him to another religion or to atheism.

Article 11

- a. Human beings are born free, and no one has the right to enslave, humiliate, oppress or exploit them, and there can be no subjugation but to God the Most-High.
- b. Colonialism of all types being one of the most evil forms of enslavement is prohibited. Peoples suffering from colonialism have the full right to freedom and self-determination. It is the duty of all

States and peoples to support the struggle of colonized peoples for the liquidation of all forms of colonialism and occupation, and all States and peoples have the right to preserve their independent identity and exercise control over their wealth and natural resources.

Article 12

Every man shall have the right, within the framework of Shari'a, to free movement and to select his place of residence whether inside or outside his country and if persecuted, is entitled to seek asylum in another country. The country of refuge shall ensure his protection until he reaches safety, unless asylum is motivated by an act which Shari'a regards as a crime.

Article 13

Work is a right guaranteed by the State and Society for each person able to work. Everyone shall be free to choose the work that suits him best and which serves his interests and those of society. The employee shall have the right to safety and security as well as to all other social guarantees. He may neither be assigned work beyond his capacity nor be subjected to compulsion or exploited or harmed in any way. He shall be entitled—without any discrimination between males and females—to fair wages for his work without delay, as well as to the holidays allowances and promotions which he deserves. For his part, he shall be required to be dedicated and meticulous in his work. Should workers and employers disagree on any matter, the State shall intervene to settle the dispute and have the grievances redressed, the rights confirmed and justice enforced without bias.

Article 14

Everyone shall have the right to legitimate gains without monopolization, deceit or harm oneself or to others. Usury (*riba*) is absolutely prohibited.

Article 15

- a. Everyone shall have the right to own property acquired in a legitimate way, and shall be entitled to the rights of ownership, without prejudice to oneself, others or the society in general. Expropriation

is not permissible except for the requirements of public interest and upon payment of immediate and fair compensation.

- b. Confiscation and seizure of property is prohibited except for a necessity dictated by law.

Article 16

Everyone shall have the right to enjoy the fruits of his scientific, literary, artistic or technical production and the right to protect the moral and material interests stemming therefrom, provided that such production is not contrary to the principles of Shari'a.

Article 17

- a. Everyone shall have the right to live in a clean environment, away from vice and moral corruption, an environment that would foster his self-development and it is incumbent upon the State and society in general to afford that right.
- b. Everyone shall have the right to medical and social care, and to all public amenities provided by society and the State within the limits of their available resources.
- c. The State shall ensure the right of the individual to a decent living which will enable him to meet all his requirements and those of his dependants, including food, clothing, housing, education, medical care and all other basic needs.

Article 18

- a. Everyone shall have the right to live in security for himself, his religion, his dependants, his honour and his property.
- b. Everyone shall have the right to privacy in the conduct of his private affairs, in his home, among his family, with regard to his property and his relationships. It is not permitted to spy on him, to place him under surveillance or to besmirch his good name. The State shall protect him from arbitrary interference.
- c. A private residence is inviolable in all cases. It will not be entered without permission from its inhabitants or in any unlawful manner, nor shall it be demolished or confiscated and its dwellers evicted.

Article 19

- a. All individuals are equal before the law, without distinction between the ruler and the ruled.
- b. The right to resort to justice is guaranteed to everyone.
- c. Liability is in essence personal.
- d. There shall be no crime or punishment except as provided for in the Shari'a.
- e. A defendant is innocent until his guilt is proven in a fair trial in which he shall be given all guarantees of defence.

Article 20

It is not permitted without legitimate reason to arrest an individual, or restrict his freedom, to exile or to punish him. It is not permitted to subject him to physical or psychological torture or to any form of humiliation, cruelty or indignity. Nor is it permitted to subject an individual to medical or scientific experimentation without his consent or at the risk of his health or of his life. Nor is it permitted to promulgate emergency laws that would provide executive authority for such actions.

Article 21

Taking hostages under any form or for any purpose is expressly forbidden.

Article 22

- a. Everyone shall have the right to express his opinion freely in such manner as would not be contrary to the principles of Shari'a.
- b. Everyone shall have the right to advocate what is right, and propagate what is good, and warn against what is wrong and evil according to the norms of Islamic Shari'a.
- c. Information is a vital necessity to society. It may not be exploited or misused in such a way as may violate sanctities and the dignity of Prophets, undermine moral and ethical values or disintegrate, corrupt or harm society or weaken its faith.
- d. It is not permitted to arouse nationalistic or doctrinal hatred or to do anything that may be an incitement to any form of racial discrimination.

Article 23

- a. Authority is a trust; and abuse or malicious exploitation thereof is absolutely prohibited, so that fundamental human rights may be guaranteed.
- b. Everyone shall have the right to participate, directly or indirectly, in the administration of his country's public affairs. He shall also have the right to assume public office in accordance with the provisions of Shari'a.

Article 24

All the rights and freedoms stipulated in this Declaration are subject to the Islamic Shari'a.

Article 25

The Islamic Shari'a is the only source of reference for the explanation or clarification of any of the articles of this declaration.

Cairo, 14 Muharram 1411 H (5 August 1990)

SOURCE: Tad Stahnke and J. Paul Martin, eds., *Religion and Human Rights: Basic Documents* (New York: Center for the Study of Human Rights, Columbia University, 1998), 184–189.



UNIVERSAL ISLAMIC DECLARATION OF RIGHTS

In 1981, a group of Islamic scholars and leaders convened a Conference in London that, among other things, produced a Universal Islamic Declaration of Rights. This declaration was ceremoniously launched in the UNESCO headquarters in Paris.

Preamble

WHEREAS the age-old human aspiration for a just world order wherein people could live, develop and prosper in an environment free from fear, oppression, exploitation and deprivation, remains largely unfulfilled;

WHEREAS the Divine Mercy unto mankind reflected in its having been endowed with super-abundant economic sustenance is being wasted, or unfairly or unjustly withheld from the inhabitants of the earth;

WHEREAS Allah (God) has given mankind through His revelations in the Holy Qur'an and the Sunnah of His Blessed Prophet Muhammad an abiding legal and moral framework within which to establish and regulate human institutions and relationships;

WHEREAS the human rights decreed by the Divine Law aim at conferring dignity and honour on mankind and are designed to eliminate oppression and injustice;

WHEREAS by virtue of their Divine source and sanction these rights can neither be curtailed, abrogated or disregarded by authorities, assemblies or other institutions, nor can they be surrendered or alienated;

Therefore we, as Muslims, who believe

- a) in God, the Beneficent and Merciful, the Creator, the Sustainer, the Sovereign, the sole Guide of mankind and the Source of all Law;
- b) in the Vicegerency (Khilafah) of man who has been created to fulfill the Will of God on earth;
- c) in the wisdom of Divine guidance brought by the Prophets, whose mission found its culmination in the final Divine message that was conveyed by the Prophet Muhammad (Peace be upon him) to all mankind;
- d) that rationality by itself without the light of revelation from God can neither be a sure guide in the affairs of mankind nor provide spiritual nourishment to the human soul, and, knowing that the teachings of Islam represent the quintessence of Divine guidance in its final and perfect form, feel duty-bound to remind man of the high status and dignity bestowed on him by God;
- e) in inviting all mankind to the message of Islam;
- f) that by the terms of our primeval covenant with God our duties and obligations have priority over our rights, and that each one of us is under a bounden duty to spread the teachings of Islam by word, deed, and indeed in all gentle ways, and to make them effective not only in our individual lives but also in the society around us;
- g) in our obligation to establish an Islamic order:
- i) wherein all human beings shall be equal and none shall enjoy a privilege or suffer a disadvantage or discrimination by reason of race, colour, sex, origin or language;
- ii) wherein all human beings are born free;

- iii) wherein slavery and forced labour are abhorred;
- iv) wherein conditions shall be established such that the institution of family shall be preserved, protected and honoured as the basis of all social life;
- v) wherein the rulers and the ruled alike are subject to, and equal before, the Law;
- vi) wherein obedience shall be rendered only to those commands that are in consonance with the Law;
- vii) wherein all worldly power shall be considered as a sacred trust, to be exercised within the limits prescribed by the Law and in a manner approved by it, and with due regard for the priorities fixed by it;
- viii) wherein all economic resources shall be treated as Divine blessings bestowed upon mankind, to be enjoyed by all in accordance with the rules and the values set out in the Qur'an and the Sunnah;
- ix) wherein all public affairs shall be determined and conducted, and the authority to administer them shall be exercised after mutual consultation (*Shura*) between the believers qualified to contribute to a decision which would accord well with the Law and the public good;
- x) wherein everyone shall undertake obligations proportionate to his capacity and shall be held responsible pro rata for his deeds;
- xi) wherein everyone shall, in case of an infringement of his rights, be assured of appropriate remedial measures in accordance with the Law;
- xii) wherein no one shall be deprived of the rights assured to him by the Law except by its authority and to the extent permitted by it;
- xiii) wherein every individual shall have the right to bring legal action against anyone who commits a crime against society as a whole or against any of its members;
- xiv) wherein every effort shall be made to
 - (a) secure unto mankind deliverance from every type of exploitation, injustice and oppression,
 - (b) ensure to everyone security, dignity and liberty in terms set out and by methods approved and within the limits set by the Law;

Do hereby, as servants of Allah and as members of the Universal Brotherhood of Islam, at the beginning of the Fifteenth Century of the Islamic Era, affirm our

commitment to uphold the following inviolable and inalienable human rights that we consider are enjoined by Islam.

I Right to Life

- a) Human life is sacred and inviolable and every effort shall be made to protect it. In particular no one shall be exposed to injury or death, except under the authority of the Law.
- b) Just as in life, so also after death, the sanctity of a person's body shall be inviolable. It is the obligation of believers to see that a deceased person's body is handled with due solemnity.

II Right to Freedom

- a) Man is born free. No inroads shall be made on his right to liberty except under the authority and in due process of the Law.
- b) Every individual and every people has the inalienable right to freedom in all its forms—physical, cultural, economic, and political—and shall be entitled to struggle by all available means against any infringement or abrogation of this right; and every oppressed individual or people has a legitimate claim to the support of other individuals and/or peoples in such a struggle.

III Right to Equality and Prohibition Against Impermissible Discrimination

- a) All persons are equal before the Law and are entitled to equal opportunities and protection of the Law.
- b) All persons shall be entitled to equal wage for equal work.
- c) No person shall be denied the opportunity to work or be discriminated against in any manner or exposed to greater physical risk by reason of religious belief, colour, race, origin, sex or language.

IV Right to Justice

- a) Every person has the right to be treated in accordance with the Law, and only in accordance with the Law.
- b) Every person has not only the right but also the obligation to protest against injustice; to recourse to remedies provided by the

Law in respect of any unwarranted personal injury or loss; to self-defence against any charges that are preferred against him and to obtain fair adjudication before an independent judicial tribunal in any dispute with public authorities or any other person.

- c) It is the right and duty of every person to defend the rights of any other person and the community in general (*Hisbah*).
- d) No person shall be discriminated against while seeking to defend private and public rights.
- e) It is the right and duty of every Muslim to refuse to obey any command which is contrary to the Law, no matter by whom it may be issued.

V Right to Fair Trial

- a) No person shall be adjudged guilty of an offence and made liable to punishment except after proof of his guilt before an independent judicial tribunal.
- b) No person shall be adjudged guilty except after a fair trial and after reasonable opportunity for defence has been provided to him.
- c) Punishment shall be awarded in accordance with the Law, in proportion to the seriousness of the offence and with due consideration of the circumstances under which it was committed.
- d) No act shall be considered a crime unless it is stipulated as such in the clear wording of the Law.
- e) Every individual is responsible for his actions. Responsibility for a crime cannot be vicariously extended to other members of his family or group, who are not otherwise directly or indirectly involved in the commission of the crime in question.

VI Right to Protection Against Abuse of Power

Every person has the right to protection against harassment by official agencies. He is not liable to account for himself except for making a defence to the charges made against him or where he is found in a situation wherein a question regarding suspicion of his involvement in a crime could be reasonably raised.

VII Right to Protection Against Torture

No person shall be subjected to torture in mind or body, or degraded, or threatened with injury either to himself or to anyone related to or held

dear by him, or forcibly made to confess to the commission of a crime, or forced to consent to an act which is injurious to his interests.

VIII Right to Protection of Honour and Reputation

Every person has the right to protect his honour and reputation against calumnies, groundless charges or deliberate attempts at defamation and blackmail.

IX Right to Asylum

- a) Every persecuted or oppressed person has the right to seek refuge and asylum. This right is guaranteed to every human being irrespective of race, religion, colour and sex.
- b) Al Masjid Al Haram (the sacred house of Allah) in Mecca is a sanctuary for all Muslims.

X Rights of Minorities

- a) The Qur'anic principle "There is no compulsion in religion" shall govern the religious rights of non-Muslim minorities.
- b) In a Muslim country religious minorities shall have the choice to be governed in respect of their civil and personal matters by Islamic Law, or by their own laws.

XI Right and Obligation to Participate in the Conduct and Management of Public Affairs

- a) Subject to the Law, every individual in the community (*Umma*) is entitled to assume public office.
- b) Process of free consultation (*Shura*) is the basis of the administrative relationship between the government and the people. People also have the right to choose and remove their rulers in accordance with this principle.

XII Right to Freedom of Belief, Thought and Speech

- a) Every person has the right to express his thoughts and beliefs so long as he remains within the limits prescribed by the Law. No one,

however, is entitled to disseminate falsehood or to circulate reports which may outrage public decency, or to indulge in slander, innuendo or to cast defamatory aspersions on other persons.

- b) Pursuit of knowledge and search after truth is not only a right but a duty of every Muslim.
- c) It is the right and duty of every Muslim to protest and strive (within the limits set out by the Law) against oppression even if it involves challenging the highest authority in the state.
- d) There shall be no bar on the dissemination of information provided it does not endanger the security of the society or the state and is confined within the limits imposed by the Law.
- e) No one shall hold in contempt or ridicule the religious beliefs of others or incite public hostility against them; respect for the religious feelings of others is obligatory on all Muslims.

XIII Right to Freedom of Religion

Every person has the right to freedom of conscience and worship in accordance with his religious beliefs.

XIV Right to Free Association

- a) Every person is entitled to participate individually and collectively in the religious, social, cultural and political life of his community and to establish institutions and agencies meant to enjoin what is right (*ma'roof*) and to prevent what is wrong (*munkar*).
- b) Every person is entitled to strive for the establishment of institutions whereunder an enjoyment of these rights would be made possible. Collectively, the community is obliged to establish conditions so as to allow its members full development of their personalities.

XV The Economic Order and the Rights Evolving Therefrom

- a) In their economic pursuits, all persons are entitled to the full benefits of nature and all its resources. These are blessings bestowed by God for the benefit of mankind as a whole.
- b) All human beings are entitled to earn their living according to the Law.

- c) Every person is entitled to own property individually or in association with others. State ownership of certain economic resources in the public interest is legitimate.
- d) The poor have the right to a prescribed share in the wealth of the rich, as fixed by Zakah, levied and collected in accordance with the Law.
- e) All means of production shall be utilised in the interest of the community (*Umma*) as a whole, and may not be neglected or misused.
- f) In order to promote the development of a balanced economy and to protect society from exploitation, Islamic Law forbids monopolies, unreasonable restrictive trade practices, usury, the use of coercion in the making of contracts and the publication of misleading advertisements.
- g) All economic activities are permitted provided they are not detrimental to the interests of the community (*Umma*) and do not violate Islamic laws and values.

XVI Right to Protection of Property

No property may be expropriated except in the public interest and on payment of fair and adequate compensation.

XVII Status and Dignity of Workers

Islam honours work and the worker and enjoins Muslims not only to treat the worker justly but also generously. He is not only to be paid his earned wages promptly, but is also entitled to adequate rest and leisure.

XVIII Right to Social Security

Every person has the right to food, shelter, clothing, education and medical care consistent with the resources of the community. This obligation of the community extends in particular to all individuals who cannot take care of themselves due to some temporary or permanent disability.

XIX Right to Found a Family and Related Matters

- a) Every person is entitled to marry, to found a family and to bring up children in conformity with his religion, traditions and culture. Every spouse is entitled to such rights and privileges and carries such obligations as are stipulated by the Law.

- b) Each of the partners in a marriage is entitled to respect and consideration from the other.
- c) Every husband is obligated to maintain his wife and children according to his means.
- d) Every child has the right to be maintained and properly brought up by its parents, it being forbidden that children are made to work at an early age or that any burden is put on them which would arrest or harm their natural development.
- e) If parents are for some reason unable to discharge their obligations towards a child it becomes the responsibility of the community to fulfill these obligations at public expense.
- f) Every person is entitled to material support, as well as care and protection, from his family during his childhood, old age or incapacity. Parents are entitled to material support as well as care and protection from their children.
- g) Motherhood is entitled to special respect, care and assistance on the part of the family and the public organs of the community (*Umma*).
- h) Within the family, men and women are to share in their obligations and responsibilities according to their sex, their natural endowments, talents and inclinations, bearing in mind their common responsibilities toward their progeny and their relatives.
- i) No person may be married against his or her will, or lose or suffer diminution of legal personality on account of marriage.

XX Rights of Married Women

Every married woman is entitled to:

- a) live in the house in which her husband lives;
- b) receive the means necessary for maintaining a standard of living which is not inferior to that of her spouse, and, in the event of divorce, receive during the statutory period of waiting (*iddah*) means of maintenance commensurate with her husband's resources, for herself as well as for the children she nurses or keeps, irrespective of her own financial status, earnings, or property that she may hold in her own rights;
- c) seek and obtain dissolution of marriage (*Khul'a*) in accordance with the terms of the Law. This right is in addition to her right to seek divorce through the courts;

- d) inherit from her husband, her parents, her children and other relatives according to the Law;
- e) strict confidentiality from her spouse, or ex-spouse if divorced, with regard to any information that he may have obtained about her, the disclosure of which could prove detrimental to her interests. A similar responsibility rests upon her in respect of her spouse or ex-spouse.

XXI Right to Education

- a) Every person is entitled to receive education in accordance with his natural capabilities.
- b) Every person is entitled to a free choice of profession and career and to the opportunity for the full development of his natural endowments.

XXII Right of Privacy

Every person is entitled to the protection of his privacy.

XXIII Right to Freedom of Movement and Residence

- a) In view of the fact that the World of Islam is veritably *Ummah Islamiya*, every Muslim shall have the right to freely move in and out of any Muslim country.
- b) No one shall be forced to leave the country of his residence, or be arbitrarily deported therefrom without recourse to due process of Law.

SOURCE: Islamic Council, London, England. <http://www.alhewar.com/ISLAMDECL.html>.



ARAB CHARTER ON HUMAN RIGHTS

THIS CHARTER WAS adopted by the Council of the League of Arab States on September 15, 1994, meeting in Cairo, Egypt. The twenty-two members of the League of Arab States include nations from the Middle East and North Africa. In the decade between 1994 and 2004, the charter

has been widely discussed and presented to various governments and human rights organizations.

Preamble

Given the Arab nation's belief in human dignity since God honoured it by making the Arab World the cradle of religions and the birthplace of civilizations which confirmed its right to a life of dignity based on freedom, justice and peace,

Pursuant to the eternal principles of brotherhood and equality among all human beings which were firmly established by the Islamic Sharia and the other divinely-revealed religions,

Being proud of the humanitarian values and principles which it firmly established in the course of its long history and which played a major role in disseminating centres of learning between the East and the West, thereby making it an international focal point for seekers of knowledge, culture and wisdom,

Conscious of the fact that the entire Arab World has always worked together to preserve its faith, believing in its unity, struggling to protect its freedom, defending the right of nations to self-determination and to safeguard their resources, believing in the rule of law and that every individual's enjoyment of freedom, justice and equality of opportunity is the yardstick by which the merits of any society are gauged,

Rejecting racism and zionism, which constitute a violation of human rights and pose a threat to world peace,

Acknowledging the close interrelationship between human rights and world peace,

Reaffirming the principles of the Charter of the United Nations and the Universal Declaration of Human Rights, as well as the provisions of the United Nations International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights and the Cairo Declaration on Human Rights in Islam.

In confirmation of all the above, have agreed as follows:

Part I

Article 1

- a. All peoples have the right of self-determination and control over their natural wealth and resources and, accordingly, have the right

- to freely determine the form of their political structure and to freely pursue their economic, social and cultural development.
- b. Racism, zionism, occupation and foreign domination pose a challenge to human dignity and constitute a fundamental obstacle to the realization of the basic rights of peoples. There is a need to condemn and endeavour to eliminate all such practices.

Part II

Article 2

Each State Party to the present Charter undertakes to ensure to all individuals within its territory and subject to its jurisdiction the right to enjoy all the rights and freedoms recognized herein, without any distinction on grounds of race, colour, sex, language, religion, political opinion, national or social origin, property, birth or other status and without any discrimination between men and women.

Article 3

- a. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Charter in virtue of law, conventions or custom shall be admitted on the pretext that the present Charter does not recognize such rights or that it recognizes them to a lesser extent.
- b. No State Party to the present Charter shall derogate from the fundamental freedoms recognized herein and which are enjoyed by the nationals of another State that shows less respect for those freedoms.

Article 4

- a. No restrictions shall be placed on the rights and freedoms recognized in the present Charter except where such is provided by law and deemed necessary to protect the national security and economy, public order, health or morals or the rights and freedoms of others.
- b. In time of public emergency which threatens the life of the nation, the State's Parties may take measures derogating from their obligations under the present Charter to the extent strictly required by the exigencies of the situation.

- c. Such measures or derogations shall under no circumstances affect or apply to the rights and special guarantees concerning the prohibition of torture and degrading treatment, return to one's country, political asylum, trial, the inadmissibility of retrial for the same act, and the legal status of crime and punishment.

Article 5

Every individual has the right to life, liberty and security of person. These rights shall be protected by law.

Article 6

There shall be no crime or punishment except as provided by law and there shall be no punishment in respect of an act preceding the promulgation of that provision. The accused shall benefit from subsequent legislation if it is in his favour.

Article 7

The accused shall be presumed innocent until proved guilty at a lawful trial in which he has enjoyed the guarantees necessary for his defence.

Article 8

Everyone has the right to liberty and security of person and no one shall be arrested, held in custody or detained without a legal warrant and without being brought promptly before a judge.

Article 9

All persons are equal before the law and everyone within the territory of the State has a guaranteed right to legal remedy.

Article 10

The death penalty may be imposed only for the most serious crimes and anyone sentenced to death shall have the right to seek pardon or commutation of the sentence.

Article 11

The death penalty shall under no circumstances be imposed for a political offence.

Article 12

The death penalty shall not be inflicted on a person under 18 years of age, on a pregnant woman prior to her delivery or on a nursing mother within two years from the date on which she gave birth.

Article 13

- a. The State's parties shall protect every person in their territory from being subjected to physical or mental torture or cruel, inhuman or degrading treatment. They shall take effective measures to prevent such acts and shall regard the practice thereof, or participation therein, as a punishable offence.
- b. No medical or scientific experimentation shall be carried out on any person without his free consent.

Article 14

No one shall be imprisoned on the ground of his proven inability to meet a debt or fulfil any civil obligation.

Article 15

Persons sentenced to a penalty of deprivation of liberty shall be treated with humanity.

Article 16

No one shall be tried twice for the same offence.

Anyone against whom such proceedings are brought shall have the right to challenge their legality and to demand his release.

Anyone who is the victim of unlawful arrest or detention shall be entitled to compensation.

Article 17

Privacy shall be inviolable and any infringement thereof shall constitute an offence. This privacy includes private family affairs, the inviolability of the home and the confidentiality of correspondence and other private means of communication.

Article 18

Everyone shall have the inherent right to recognition as a person before the law.

Article 19

The people are the source of authority and every citizen of full legal age shall have the right of political participation, which he shall exercise in accordance with the law.

Article 20

Every individual residing within the territory of a State shall have the right to liberty of movement and freedom to choose his place of residence in any part of the said territory, within the limits of the law.

Article 21

No citizen shall be arbitrarily or unlawfully prevented from leaving any Arab country, including his own, nor prohibited from residing, or compelled to reside, in any part of his country.

Article 22

No citizen shall be expelled from his country or prevented from returning thereto.

Article 23

Every citizen shall have the right to seek political asylum in other countries in order to escape persecution. This right shall not be enjoyed by persons facing prosecution for an offence under the ordinary law. Political refugees shall not be extraditable.

Article 24

No citizen shall be arbitrarily deprived of his original nationality, nor shall his right to acquire another nationality be denied without a legally valid reason.

Article 25

Every citizen has a guaranteed right to own private property. No citizen shall under any circumstances be divested of all or any part of his property in an arbitrary or unlawful manner.

Article 26

Everyone has a guaranteed right to freedom of belief, thought and opinion.

Article 27

Adherents of every religion have the right to practise their religious observances and to manifest their views through expression, practice or teaching, without prejudice to the rights of others. No restrictions shall be imposed on the exercise of freedom of belief, thought and opinion except as provided by law.

Article 28

All citizens have the right to freedom of peaceful assembly and association. No restrictions shall be placed on the exercise of this right unless so required by the exigencies of national security, public safety or the need to protect the rights and freedoms of others.

Article 29

The State guarantees the right to form trade unions and the right to strike within the limits laid down by law.

Article 30

The State guarantees every citizen's right to work in order to secure for himself a standard of living that meets the basic requirements of life. The State also guarantees every citizen's right to comprehensive social security.

Article 31

Free choice of work is guaranteed and forced labour is prohibited. Compelling a person to perform work under the terms of a court judgement shall not be deemed to constitute forced labour.

Article 32

The State shall ensure that its citizens enjoy equality of opportunity in regard to work, as well as a fair wage and equal remuneration for work of equal value.

Article 33

Every citizen shall have the right of access to public office in his country.

Article 34

The eradication of illiteracy is a binding obligation and every citizen has a right to education. Primary education, at the very least, shall be compulsory and free and both secondary and university education shall be made easily accessible to all.

Article 35

Citizens have a right to live in an intellectual and cultural environment in which Arab nationalism is a source of pride, in which human rights are sanctified and in which racial, religious and other forms of discrimination are rejected and international cooperation and the cause of world peace are supported.

Article 36

Everyone has the right to participate in cultural life, as well as the right to enjoy literary and artistic works and to be given opportunities to develop his artistic, intellectual and creative talents.

Article 37

Minorities shall not be deprived of their right to enjoy their culture or to follow the teachings of their religions.

Article 38

- a. The family is the basic unit of society, whose protection it shall enjoy.
- b. The State undertakes to provide outstanding care and special protection for the family, mothers, children and the aged.

Article 39

Young persons have the right to be afforded the most ample opportunities for physical and mental development.

SOURCE: League of Arab States, Council Resolution 5437, 102nd Session, September 15, 1994. English translation provided by the United Nations Centre for Human Rights, Geneva.



BIOGRAPHICAL SKETCHES OF HUMAN RIGHTS LEADERS IN THE ISLAMIC TRADITION

THROUGHOUT ISLAMIC HISTORY, rulers, scholars, artists, reformers, and other men and women have in different ways struggled for the realization of the pivotal Islamic ideals of justice, brotherhood, and solidarity in their respective societies and beyond. Brief biographical sketches of a few representative individuals are given below.

Adylov, Ismail (1950–)

Uzbekistani human rights activist. Adylov has been involved in human rights defense activities since 1992 as a member of the Human Rights Organization of Uzbekistan (OPCHU). Adylov joined the political opposition movement *Birlik* (Unity) in 1988 and was elected a member of the *Birlik* council in 1989. As a political dissident in Uzbekistan, Adylov has investigated countless cases of unlawful arrests, monitored trials, and conducted dozens of interviews with victims of torture and their families. In 1999, he was arrested for his human rights activism and was reputedly tortured by the government during the two years he spent in prison.

Afghani, Jamal al-Din al- (1839–1897)

Islamic reformer and human rights advocate. A brilliant and enormously charismatic personality, Jamal al-Din was born and raised in Iran but preferred to be known as al-Afghani, evidently with a view to transcending

sectarian (Shi'i—Sunni) divisions within the *Umma*. Apart from Iran, Iraq, and Afghanistan, the principal stages of his numerous travels and activities were in Egypt, India, France, England, and Turkey, where he died as an honored but virtual prisoner of Sultan Abdulhamid. A serious and sharp-minded thinker, al-Afghani left no systematic account of his thought and vision. He preferred direct personal dialogue and discussion to writing. Apart from a few pamphlets and articles, most of his ideas have been preserved and disseminated by his disciples. Among these the most important was the subsequently famous Egyptian jurist and reformer, Shaykh Muhammad 'Abdu, with whom Afghani coedited and published the influential pan-Islamic journal *al-Urwa al-Wuthqa* during their sojourn in Paris from 1883 to 1884.

Like Khayr al-Din al-Tunisi, Jamal al-Din was vigorously opposed to tyranny and oppression. He saw constitutionalism as the best method for securing freedom for the people, not only from authoritarian rule, but also from corruption, inefficiency, and backwardness. Referring to the appropriate passages about *shura* in the Qur'an, Afghani argued that authority in Islam ultimately belonged to the people and that rulers have no right to govern without the consent of the ruled. Afghani argued that Muslims should unite against the common enemy and not allow sectarian, dynastic, or other rivalries to divert them from the requirements of the main struggle. To carry out this task, Muslims have to improve their understanding of both Islam and the nature of modern Western civilization. Of particular importance in this context, Afghani repeatedly argued, is the place of reason, scientific inquiry, and technological advancement in the teachings of Islam. **Sources:** Albert Hourani, *Arabic Thought in the Liberal Age, 1798–1939* (Cambridge: Cambridge University Press, 1983); Nikki R. Keddie, *An Islamic Response to Imperialism: Political and Religious Writings of Sayyid Jamal al-Din "al-Afghani"* (Berkeley: University of California Press, 1968 and 1983); Nikki R. Keddie, *Sayyid Jamal al-Din "al-Afghani": A Political Biography* (Berkeley: University of California Press, 1972); Majid Khadduri, *Political Trends in the Arab World: The Role of Ideas and Ideals in Politics* (Baltimore, MD: Johns Hopkins University Press, 1970).

Aziz, 'Umar Ibn 'Abd al-' (681–720)

Caliph and leader. An Umayyad prince by birth and upbringing, 'Umar Ibn 'Abd al-'Aziz is often described as the fifth of the *Rashidun* caliphs and the *mujaddid* (literally, reformer, renewer, believed to appear at each

turn of the century) of the first century A.H. The resounding honorific titles have been conferred by general consensus on 'Umar on account of the fact that once he succeeded to the caliphate (by designation of Sulayman ibn 'Abd al-Malik), he proceeded, systematically and energetically, to remove and rectify the many wrongs and injustices that his Umayyad predecessors and contemporaries had ruthlessly committed in order to establish by means of force and guile their morally and juridical contested monarchic style of government and also to personally enjoy as much of the benefits that go with power as they desired. To that end, 'Umar dismissed a number of powerful but corrupt administrators and provincial governors and replaced them with others who were known for their integrity and ability. He constantly reminded his appointees and assistants of the importance of treating all subjects, Muslims and non-Muslims alike, justly and with compassion. Animals, as well as humans, 'Umar often pointed out, should be treated kindly and with consideration.

At the same time, however, 'Umar was firm and could even be severe in checking members of his family whenever he detected corruption or any other forms of deviant conduct. As may be expected, 'Umar had taken it upon himself to set a good personal example. Having weaned himself from the luxurious and self-indulgent lifestyle in which he had been brought up as a prince and a greatly privileged youth, 'Umar became known throughout the rest of his life for his self-discipline, generosity, and simplicity of lifestyle. **Sources:** Al-Suyuti; Al-Tabari; *Encyclopedia of Islam*.

Ibadi, Shirin (1947–)

Iranian lawyer, judge, and human rights activist. Shirin Ibadi is the first Muslim woman to be awarded the Nobel Peace Prize. Ibadi was jailed in Iran for several weeks in 2000 on charges of slandering government officials and has long served as an advocate for women's rights. She was the first woman to serve as a judge in Iran, a position she was forced to give up in 1979, and since then she has used her position as a lawyer to defend a number of political activists. She is one of the most active lawyers in Iran, working to promote human rights for women, children, and citizens at large. Ibadi is the founder and leader of the Association for Support of Children's Rights in Iran and has written many articles and books promoting human rights, including *History and Documentation of*

Human Rights in Iran. Along with other lawyers, Shirin Ibadi launched a nongovernmental organization, the Centre for the Defenders of Human Rights. She is currently teaching at the University of Tehran. She was awarded the Nobel Prize in 2003.

Ibn Sina (Avicenna) (980–1037)

Philosopher, physician, and scientist. Known to medieval Europe as Avicenna, Abu 'Ali al-Husain ibn 'Abdullah ibn Sina is universally recognized as one of the greatest thinkers of the Islamic tradition. Thus, his philosophical encyclopedia, *Kitab al-Shifa'*, remained a major landmark in the field for several centuries on end. A prodigiously talented and multifaceted man, Ibn Sina was also a distinguished mathematician and astronomer. His numerous other works, including *Kitab al-Najah* and *al-Sharh wa'l Tanbihat*, along with *Kitab al-Shifa'*, continue to be of much interest among scholars in the present day. Both as a master physician and as a defender on moral and ethical grounds of human life, Ibn Sina was a pillar of human rights in the Muslim world and universally.

In the field of medicine, his massive encyclopedia, *Al-Qanun fi'l Tibb* (a work of about one million words), because of its formal perfection as well as its intrinsic merits as a masterly codification and refinement of ancient and Islamic knowledge in the field, dominated medical studies in the West as well as the East for some six centuries. This is attested by the fact that the Latin translation, *Canon* or *al-Qanun*, was printed thirty-six times during the fifteenth and sixteenth centuries, as well as by the great number of commentaries, metacommentaries, epitomes, glosses, imitations, and translations, many of which are preserved in manuscript form today.

Ibn Sina's concern and commitment to the basic human right to life emerges equally clearly in connection with his views on government, politics, and administration. The duties of the lawgiver, Ibn Sina insists, include guaranteeing employment for all citizens as well as social and medical care for those in society who are prevented from earning their living because of maladies and chronic diseases. In this connection, Ibn Sina pointed out that some people hold the view that the diseased whose recovery is not expected should be killed. To this Ibn Sina responded with the basic Islamic position that life is a sacred gift from God that should not be taken except for a just cause, and he unreservedly

condemned any other practice as "base" and unacceptable. Appreciation of the principled position that Ibn Sina unequivocally took over this issue more than one thousand years ago becomes greater still in view of the fact that in the middle of the twentieth century it was official policy in certain European states, supported and implemented by many doctors and physicians, to experiment with and exterminate persons who were judged to be retarded or incurably diseased, along with others who, for reasons of racist ideology, were regarded as human vermin. **Sources:** William E. Gohlman, *The Life of Ibn Sina: A Critical Edition and Annotated Translation* (Albany: State University of New York Press, 1974); Ralf Lerner and Muhsin Mahdi, eds., *Medieval Political Philosophy: A Source Book* (Ithaca, NY: Cornell University Press, 1963) 95–121; George Sarton, *Introduction to the History of Science*, vol. 1 (New York: Robert E. Krieger, 1975), 708–711; Manfred Ullman, *Islamic Medicine* (Edinburgh: Edinburgh University Press, 1978).

Imam Shamil (fl. 1830–1860)

Around the era in which Jamal al-Din al-Afghani lived, numerous anti-colonial resistance movements appeared in various parts of the Muslim world. Like Afghani (see separate biographical sketch), the leaders and supporters of these movements were determined to defend the political freedom and territorial integrity of Muslim countries and societies in the face of colonial domination and socioeconomic exploitation. One of the earliest and most celebrated examples of such anticolonial resistance movements during the nineteenth century was the movement in the Caucasus that was led by Imam Shamil. Like resistance movements that had risen during earlier times in the Crimea, central Asia, and the Caucasus, Imam Shamil's movement was focused on resisting the inexorable imperialist expansion of tsarist Russia. Rooted in and supported by the Naqshabadi *Sufi Tariqa* (a religious fraternity that is based on semi-mystical teachings of a Muslim saint or spiritual guide), Imam Shamil's campaign was one of the most prolonged and celebrated examples of Muslim resistance to European (Russian) imperialism. It continued for three decades and transformed the semipagan mountaineers of the region into conscious and committed Muslims, successfully introduced Islam into what had hitherto been animist parts of upper Chechnya and the western Caucasus, and substantially contributed to the material and

moral destruction of the Romanov dynasty. Like comparable resistance movements elsewhere in the Muslim world, however, it was finally crushed in 1859. Even then Imam Shamil's resistance continued to be a source of inspiration for subsequent risings, including in 1877, which provided the leadership of the short-lived Imamate of Daghestan and Chechnya during the period that followed the collapse of the tsarist empire and the establishment of the Soviet Union. **Sources:** Alexander Bennigsen and S. Enders Wimbush, *Mystics and Commissars: Sufism in the Soviet Union* (London: C. Hurst Company, 1985); Ira M. Lapidus, *A History of Islamic Societies* (Cambridge: Cambridge University Press, 1988 and 1993); Malise Ruthven, *Islam in the World*, 2nd ed. (Oxford: Oxford University Press, 1984).

Izetbegovic, 'Alya 'Ali (1925–2003)

Bosnian Islamic leader and theorist. 'Alya 'Ali Izetbegovic was born in 1925 into a renowned Muslim family. Educated in Sarajevo, he obtained university degrees in law, arts, and science. On these foundations and through further sustained studies and reflections from his unique vantage point of view as a central European Muslim of southern Slavic origins, 'Ali Izetbegovic evolved a personal and social philosophy or outlook in which spirituality, rationality, and a sense of beauty and humanity were remarkably well integrated. Profound commitment to human rights in general and freedom of conscience in particular, together with a deep belief in the value and importance of multiculturalism and of mutual understanding and cooperation between Muslim and Western peoples were core values in his thought. 'Alya 'Ali Izetbegovic was twice sent to jail: on one occasion being given a five-year hard-labor sentence; on the other, a fourteen-year sentence that was, however, reduced to twelve.

With the break-up of Yugoslavia in 1990, Izetbegovic formed a nationalist party that won Bosnia's first election with ninety-nine seats for Muslims, eighty-five for Serbs, and forty-nine for Croats. Offered the opportunity to govern the country through a Muslim-Croat alliance, Izetbegovic chose instead to form a government of national unity in which the three parties shared positions of leadership. But it soon became obvious that the Serb party had its own very different agenda. **Sources:** 'Alya 'Ali Izetbegovic, *Islam Between East and West* (Washington, DC: American Trust Publications, 1984); Noel Malcom, *Bosnia: A Short History* (London: Macmillan, 1994).

Khattab, 'Umar ibn al- (586–644)

Caliph and leader. The second of the four *Rashidun*—that is, the Rightly Guided—caliphs, 'Umar assumed the caliphate on the death of Abu Bakr in 643 and held the office until November 644. A man of exceptionally strong character, great administrative ability, and simplicity of lifestyle, the "Commander of the faithful," as he was generally referred to, was above all famed for his integrity, compassion, and devotion to justice for Muslims and non-Muslims, in the social as well as the juridical senses of the term.

Presiding over a rapidly expanding state whose territories included Egypt, Syria, Iraq, and Persia in addition to most of the Arabian peninsula, 'Umar made sure that conquered peoples enjoyed full protection for their persons and property as well as the right to practice their respective faiths. In return, they paid the prescribed taxes. From these and other sources of state, revenues, stipends, and pensions were paid out to the garrisons stationed at strategic locations in various parts of the state but were not allowed to settle as land owners and to Muslim civilians on the principle of *sabiqā*—precedence in embracing Islam—as well as to the poor and needy, both Muslims and non-Muslims. To ensure the efficient management of the system as a whole, 'Umar instituted *diwans*, public registers in which were listed the names and addresses of all recipients of stipends and pensions as well as the amounts thereof. In addition, 'Umar laid the foundations of a social welfare system whereby mothers were paid child assistance on a sliding scale, so that the older the child became, the greater was the sum paid to his or her mother.

'Umar took special interest in the judiciary and the various ways and means whereby justice could best be done whenever and wherever in the state complaints were made or disputes occurred. The letter on justice and the judiciary that Caliph 'Umar sent to Abu Musa al-Ash'ari whom he had appointed judge in Kufa is a classic of its kind (see the Resources section in Part II) 'Umar's sharp rebuke of his governor in Egypt, 'Amr ibn al-'As, and his son, who had arrogantly mistreated a Coptic youth, is famous: "*mata ista'badtum al-nas wa qad waladathum ummahatum ahraran*," or "how could you oppress [or enslave] people when they were born free?" His words continued to reverberate down the ages as a succinct expression of Islam's total rejection of injustice and discrimination and of the uncompromising commitment of Muslims to the upholding and defense of human dignity and human freedom irrespective of differences in

faith, race, or status. **Sources:** Al-Suyuti, *Tarikh al Khulafa'*; Al-Tabari, *Tarikh al-Rusul wa'l Muluk*; *Encyclopedia of Islam*.

Khuwaylid, Khadijah bint (d. 619)

Wife of Prophet Muhammad and the first person to embrace Islam. As such, and as the first and, until her death some twenty years later, only wife of Prophet Muhammad, Khadijah's life and relationship with the Prophet shed some vivid light on the rights of women and their position in relation to men in Islam. A distant cousin of Prophet Muhammad who was several years his senior and a relatively prosperous widow, Khadijah employed the young Muhammad as the manager of her business in the long-distance trade between Makka and Syria. Impressed by his character and integrity (he was known as *al-amin* or "the trustworthy one" in Makkan society) as well as by his performance as business manager and his demeanor as a handsome young man, Khadijah took the initiative in seeking his consent in matrimony. It proved to be a happy and deeply satisfying marriage for both parties. In the course of their two decades as husband and wife, Khadijah bore him four daughters, Zaynab, Umm Kulthum, Ruqayyah, and Fatimah, and one son, al-Qasim. She was also his comforting companion and a strong support, especially during the many and difficult years when the Prophet and the small community of Muslims who had accepted his call were subjected to myriad forms of fierce and merciless persecution in Makka. Her death in 619 C.E., three days after that of the Prophet's protective uncle, Abu Talib, was a heavy blow that induced the Prophet to designate that year *'am al-ahzan*, the year of multiple griefs.

Khadijah's life experience as the Prophet's first wife established certain precedents that continued to echo and be invoked during subsequent decades and indeed throughout Islamic history. Like Khadijah, Muslim women maintain their original names and identities after marriage. They also continue to keep and manage their own wealth and businesses unless they voluntarily wished to give some to their husbands. By contrast, husbands are morally and legally obliged in Islam to support and protect their wives and female relations. And although Muslim women, like their counterparts in other societies, would normally wait for males to ask for their hands in marriage, some in certain Muslim societies even today not infrequently invoke Khadijah's example by taking the initiative in seeking out male partners in marriage. Above all,

Muslim women do their utmost in order to live up to the example set by Khadijah as loving, responsible, and dedicated partners to their spouses.

Sources: Karen Armstrong, *Muhammad: A Biography of the Prophet* (London: Phoenix Press, 1991); Muhammad Husein Haykal, *The Life of Muhammad* (Kuala Lumpur, Malaysia: Islamic Book Trust, 2002); Ibn Hisham, *Sirat Rasul Allah*, English trans. Alfred Guillaume, *The Life of Muhammad* (Oxford: Oxford University Press, 1955); Martin Lings, *Muhammad, His Life Based on the Earliest Sources* (London: George Allen & Unwin, 1983).

Marzuki, Moncef (1946–)

Tunisian human rights activist and writer. Former president of the Tunisian League for Human Rights, spokesperson for the National Council of Liberties of Tunisia, and president of the Paris-based Arab Human Rights Committee, Marzuki is based at the University of Sousse in southern Tunisia. In July 2000, Marzuki was removed from his position as a professor of neurology and preventive medicine at the university for his human rights activism. He has been forced from several clinical positions, prevented from organizing training for doctors, and been denied the right to continue his research. In 2000, he was finally given permission by the Tunisian government to leave the country. Since then, he has continued his promotion of human rights and freedom of expression abroad.

Muzaffar, Chandra (1947–)

Malaysian writer and university professor. For many years he taught at universities in his country while remaining active in nongovernmental organization work. A political scientist by training, his last academic position was professor and director at the Centre for Civilizational Dialogue, University of Malaya. Apart from writings on civilizational dialogue, he has published extensively on religion, human rights, Malaysian politics, and international relations. He has authored or edited eighteen books, including *Rights, Religion and Reform*. Muzaffar has also written more than 500 articles in English and Malay in various local and international journals. His latest book is entitled *Muslims, Dialogue, Terror* (2003). Muzaffar also founded a multiethnic social reform group in 1977 called Aliran Kesedaran Negara (ALIRAN; National Consciousness

Movement), which sought to raise public awareness of issues pertaining to democracy and ethnic relations in Malaysia. Currently, he is president of the international NGO, the International Movement for a Just World (JUST), which is concerned with challenges to social justice and human dignity in global politics. JUST also attempts to develop ideas on a just and compassionate civilization based upon shared universal spiritual and moral values. Muzaffar sits on the board of a number of other international NGOs concerned with social justice and civilizational dialogue. Among the academic awards Muzaffar has received is the Harry J. Benda Prize for distinguished scholarship on Southeast Asia from the Association of Asian Studies, North America.

Prophet Muhammad (570–623)

Prophet of Islam. Like earlier prophets, whose work he perceived as his mission to complete and bring to perfection, Prophet Muhammad was primarily concerned with bringing a vision of hope and personal salvation to men and women around the globe. Guided by the revelation of the Qur'an, however, Muhammad, unlike his predecessors, was also convinced that individual salvation could not be either easily or fully realized in sociopolitical conditions where oppression, exploitation, and other forms of corruption remained unchecked. Social justice and the creation of a good human society were therefore integral to his mission and have continued to be of central importance in the message of Islam.

The first chapters of the Qur'an (literally, the "Recitation") were revealed to Muhammad (PBUH) when he was about forty and living in his home town of Makka in western Arabia. For the following thirteen years, he continued to preach the new message, with only a few individuals, including a number of slaves and poor persons, responding positively to his preaching. Meanwhile, he and his few followers were subjected to myriad forms of merciless persecution; however, they continued to be patient and resolute in the unwavering practice and peaceful preaching of their faith. In 622 C.E., however, Muhammad left Makka for Madina, an oasis town some three hundred kilometers to the north of Makka. The *hijra* (commonly translated as "emigration") proved to be a turning point not only in his personal fortune and in the history of Islam but also in the subsequent history of humanity and of human civilization at large. For he was then able, through a remarkable series of agreements, to emerge as a statesman as well as a prophet, and

to constitute and launch the Muslim *Umma*, an international community with a universal moral mission, which would shortly thereafter lead the world in almost every conceivable field of human endeavor for about one thousand years.

Through his many sayings and directives and, above all, by the personal example of his conduct and lifestyle, Prophet Muhammad explained and demonstrated the many aspects of the said system of rights and duties. Of special interest for contemporary multicultural societies is the remarkable set of rules and precedents that Prophet Muhammad, no doubt bearing in mind the Qur'anic directive that "there should be no compulsion in matters of faith," laid down with regard to the treatment of Jews, Christians, and other non-Muslim groups and individuals living in Muslim societies. Thus to the Christians of Najran and neighboring territories he extended the security of God and the pledge of his prophet: "for their lives, their religion and their property... they shall not oppress or be oppressed. Sources: Karen Armstrong, *Muhammad: A Biography of the Prophet* (London: Phoenix Press, 1991); Muhammad Husein Haykal, *The Life of Muhammad* (Kuala Lumpur, Malaysia: Islamic Book Trust, 2002); Ibn Hisham, *Sirat Rasul Allah*, trans. Alfred Guillaume, *The Life of Muhammad* (Oxford, Oxford University Press, 1955); Martin Lings, *Muhammad: His Life Based on the Earliest Sources* (London: George Allen & Unwin, 1983).

Shatibi, Ishaq Ibrahim al- (d. 790)

Lawyer and social theorist. Abu Ishaq Ibrahim ibn Musa al-Shatibi (from Shatiba—or Xativa or Jativa in Spanish—his original family home in al-Andalus) was raised and educated in Granada during the glorious period of the Nasrid Kingdom there. Among his contemporaries were Lisan al-Din ibn al-Khatib and 'Abd al-Rahman ibn Khaldun. A creative and highly systematic thinker, al-Shatibi owes his distinguished place in the history of Islamic juridical and social thought to his reconceptualization of the roles of *ijtihad* (independent legal judgement) and *fatwa* (legal opinion) in the elucidation of *shari'a* and *fiqh* as embodied in his four-volume work, *Al-Muwafaqat fi Usul al-Ahkam*. At the core of his argument is the notion that justice can be fully attained only where the ends and objectives of the *shari'a* (*maqasid al-Shari'a*) are kept in mind and where these are clearly understood as consisting of the protection and promotion of public interest and the fulfillment of human needs ethically and rationally pursued in the light of the *shari'a*.

Two considerations were of primary importance in inducing al-Shatibi to develop his juridical philosophy along the above indicated lines. One of these was the proliferation of often contradictory laws and legal opinions through much of the Muslim world, including Granada, during al-Shatibi's time. He was convinced this amounted to a negation of the very basis of law and was therefore unacceptable. The second consideration related to the fact that the concept of *maslaha* (public interest) had been an important factor in Islamic juridical and social thought since the days of the Prophet. It was well known that although Prophet Muhammad had not infrequently divided conquered land and other forms of booty among those who participated in jihad, he decided in the case of Khaybar to turn it into state land for the benefit of the community as a whole. Later, when the land of the Sawad in Iraq was gained by the Muslims during 'Umar's caliphate, some Companions urged him to divide the land among the mujahideen. Others were of the opinion that it should become state land. After further consultation, 'Umar settled for the latter opinion: "If it were divided among the warriors what would be the position of the believers as a whole and their descendants?"

In his classic *al-Muwafaqat*, al-Shatibi refined many concepts and finally developed his basic doctrine of *Maqasid al-Shari'a*. "I mean by *maslaha*," he wrote, "that which concerns the subsistence of human life, the completion of man's livelihood, and the acquisition of what his emotional and intellectual qualities require of him, in an absolute sense." *Masalih* belong either to this world or the world hereafter. The *shari'a* protects *masalih* by preserving their existence and adopting measures to support their basis; it also protects *masalih* negatively by preventing their extinction and by adopting measures that would remove their actual or potential disruption. Al-Shatibi then divides *maqasid* or *masalih* into *daruri* (necessary); *haji* (needed), and *tahsini* (commendable or bestowing further embellishment).

In view of the centrality of human needs in al-Shatibi's thought and the emphasis he puts on rationality together with public interest and individual responsibility, it is not surprising that *al-Muwafaqat* and his other works continue to attract many contemporary scholars of juridical and social thought in Islam, including some who have special interest in human rights. Sources: Abu Ishaq al-Shatibi, *Al-Muwafaqat fi Usul al-ahkam*, in Muhammad Muhyi'l Din ed., 4 vols. (Cairo: Maktabat Sabih, 1969); *Encyclopedia of Islam*, S.V. "Maslaha"; Wael Hallaq, *A History of Islamic Legal Theories* (Cambridge: Cambridge University Press, 1997); Muhammad

Khalid Masud, *Islamic Legal Philosophy* (Islamabad: Islamic Research Institute, 1977 and 1984).

Siddiq, Abu Bakr al- (fl. 650)

First caliph or successor, as leader of the Muslim *Umma*, to Prophet Muhammad. The first adult male to embrace Islam, Abu Bakr was the closest of the companions to Prophet Muhammad (PBUH) and accompanied him during his hijra from Makka to Madina. Combining justice, gentleness, and firmness in his character, Abu Bakr was chosen first caliph (successor) to the Prophet upon Muhammad's death on June 8, 632. Abu Bakr's pithy and short acceptance speech (which is reproduced in the Resources section in Part II of this book) is a classic statement of the contractual nature of governance in Islam emphasizing as it does the solidarity and complementarity of the rulers and the ruled in the pursuit of justice and righteousness.

The first caliph is also remembered, among other things, for the firm stand he took against those who, following the death of the Prophet, decided not to pay *zakat* to the public treasury by arguing that *salat* (prayer) was enough. Abu Bakr fought them resolutely, thereby safeguarding the integrity of the system, together with the social benefits that the poor received from the *zakat*. He died on August 23, 634, and was buried beside the Prophet. Sources: Al-Suyuti, *Tarikh al Khulafa'*; Al-Tabari, *Tarikh al-Rusul wa'l Muluk*; *Encyclopedia of Islam*.

Tahtawi, Rifa'a Badawi Rafi' al- (1801-1873)

Reformer and educator. The Egyptian Rifa'a Badawi Rafi'al-Tahtawi (1801-1873) was the first outstanding representative of the earlier phase of the modern reform movement in Egypt. A bright and promising graduate of the ancient Islamic university of al-Azhar, al-Tahtawi was sent to Paris as imam (prayer leader) of the first substantial mission sent by Muhammad 'Ali Pasha, the ambitious and visionary founder of modern Egypt, for study and training in France. The five years, from 1826 to 1831, that he spent in Paris had a profound and lasting impression on al-Tahtawi and, through him, on subsequent Egyptian generations. For having acquired a good command of the French language, he read extensively in Western, and especially, French history, philosophy, and sociopolitical thought. Voltaire, Condillac, Rousseau, and Montesquieu were among his

favorite thinkers. No less important in Tahtawi's Western education was the fact that he witnessed the Revolution of 1830. He gave a vivid portrayal of his impressions and experiences of various aspects of French life and culture in a book, *Talkhis al-Ibriz fi Takhlis Bariz*, which he published shortly after his return to Egypt. There, as well as in the Sudanese capital, Khartoum, where he spent four years from 1850 to 1854, Tahtawi served as an educator, editor of the official Egyptian newspaper, *Ahwaqai' Al-Misriyya*, and director of a bureau of translation that was attached to the School of Languages, of which he was appointed head on his return to Egypt in 1836.

The fundamental parameters of Tahtawi's sociopolitical thought as presented in *Manahij al-albab* were basically those of classic Islamic *fiqh* and jurisprudence, especially of the Shafi'i school. However, al-Tahtawi argued, the rights and duties of the ruler and the ruled should be clearly articulated and carefully observed. He believed 'that the 'ulama should have modern educations. Education should be effectively linked to the problems of society and must be provided to girls as well as boys. The aim of education should be to form and develop personality—not simply to transmit a body of knowledge. Education should inculcate awareness of the importance of physical health, of the family and its duties, of friendship, and above all of patriotism. Tahtawi enumerated and emphasized the duties of citizens toward the homeland, including unity, obedience to the laws, and sacrifice. Sources: Jamal al-Din al-Shayyal, *Rifa'a Rafi'al Tahtawi* (Cairo: 1958); Albert Hourani, *Arabic Thought in the Liberal Age* (Cambridge: Cambridge University Press, 1983).

Talib, 'Ali Ibn Abi (600–661)

Cousin and son-in-law of Prophet Mohammad, 'Ali Ibn Abi Talib was the fourth and last of the *Rashidun* caliphs. A profoundly religious spirit whose expert knowledge of the Qur'an, the *Sunna*, and legal matters made him a valued counselor to Abu Bakr, 'Umar, and 'Uthman. 'Ali was also a superb orator and an invincible fighter on both foot and horseback. As caliph he had an excellent program for economic and social reform, which, had he been able to implement it, would have been of great benefit for the *Umma* at an exceptionally important stage in its development.

Unfortunately for all concerned, however, by the time 'Ali was elected to the caliphate (June 656), the *Umma* had already been engaged in a bitter

civil war that ended in the assassination of 'Uthman Ibn 'Affan, the third of the *Rashidun*. 'Ali tried to contain and resolve the crisis by various diplomatic and peaceful means, including arbitration, but the situation continued to deteriorate so that he was eventually involved in fighting his chief opponent, Mu'awiya Ibn Abi Sufyan, and his mainly Syrian backers, as well as several of his own former supporters who broke rank with him over the issue of arbitration. In the circumstances, 'Ali was not able to implement many of his intended reforms. His impeccable personal piety and integrity, together with his unwavering commitment to the cause of justice and his profound knowledge of legal and juridical matters, have continued to inform and inspire Muslim jurists and reformers throughout the ages. The fact that his vision of justice was combined with profound compassion and human sympathy even for those whom he felt he had to fight out of a sense of duty (he grieved, wept, and even prayed over his enemies, "our brothers who erred against us") has undoubtedly strengthened the appeal of his teachings. The letter about justice and mercy in governance that Caliph 'Ali sent to Malik al-Ashtar whom he had appointed governor in Egypt is a classic example of this. Sources: Al-Suyuti; Al-Tabari; *Encyclopedia of Islam*.

Tejan-Cole, Abdul (fl. 2000)

Prominent human rights lawyer in Sierra Leone. He represents clients whose human rights and civil liberties have been violated. He is the human rights officer for Sierra Leone's Campaign for Good Governance and is also the coordinator of the Lawyers Committee for Human Rights in Sierra Leone, an organization that educates and advocates promoting fundamental human rights. Abdul Tejan-Cole's work during the ongoing civil war in Sierra Leone has been brave and instrumental in bringing the gross human rights violations and atrocities to the world's attention. In the midst of Sierra Leone's brutal civil war, Tejan-Cole condemned abuses by all armed forces, progovernment as well as rebel factions. In November 2000, Human Rights Watch gave its highest recognition to Tejan-Cole for his tireless work in denouncing human rights violations and in turning the international spotlight to Sierra Leone. In addition to defending clients in police stations and Sierra Leone's supreme court, Tejan-Cole has set up a human rights clinic at the University of Sierra Leone, where he teaches international law.

Tunisi, Khayr al-Din Pasha al- (d. 1889)

Islamic reformer and political thinker. Born in the Caucasus around 1820, Khayr al-Din received his early education in the household of a distinguished Ottoman family in Istanbul. He was later taken in by Ahmad Bey of Tunis. There he learned Arabic and French and received a modern as well as traditional Islamic education. Khayr al-Din later joined the army, where his talents caught the attention of the Bey, who sent him to Paris in 1852 on a difficult mission. Khayr al-Din held several high state offices and in 1873 became prime minister, a post he held for four years during which he introduced a number of important educational and administrative reforms. He was later invited by Sultan Abdulhamid to Istanbul, where he became grand vizier in 1878. Khayr al-Din then tried to push through a program of reforms, but this was not acceptable to Abdulhamid. Khayr al-Din was deposed in 1879. He stayed on in Istanbul in virtual retirement and died in 1889.

As a thinker, Khayr al-Din's principal work on government and politics was a study in religion and politics. The key to the realization of his objective, Khayr al-Din insisted, was justice. It is true, he pointed out, that justice may be realized through the actions and policies of a ruler who is endowed with innate goodness and the knowledge given him by reason. But this, Khayr al-Din argued, is not the norm. To guarantee the attainment of the desired objective, it is necessary to limit the powers of the ruler. The *shari'a*, unlike the positive laws of modern European states, is of divine origin. He argued that it is not a fixed and detailed code but rather a broad and flexible framework of general directives. Everything that it does not explicitly forbid is permissible. The interpretation of its general norms and directives should always be based on the principle of *maslaha*—public interest or general welfare. In that connection, Khayr al-Din cited the great Hanbali jurist Ibn Qayyim al-Jawziyya and his vigorous advocacy of the Islamic juridical principle that whatever a government does in pursuit of the common good is in fact in accordance with the *shari'a* even if it has neither been indicated by the Prophet nor revealed in the Qur'an. **Sources:** Albert Hourani, *Arabic Thought in the Liberal Age 1798–1939* (Cambridge: Cambridge University Press, 1983); Khayr al-Din Pasha, *Aqwam al-masalik fi ma'rifat ahwal al-mamalik*, Tunis, 1284–1285 A.H. (1867–1868 C.E.), English trans. L. C. Brown, *The Surest Path: the Political Treatise of a Nineteenth-Century Muslim Statesman* (Cambridge, MA: 1967).

Yacob, Abdul Rahman (fl. 2000)

Indonesian lawyer and human rights activist in Aceh. He works with a coalition of human rights organizations, known by its Indonesian name of Koalisi HAM. Under the leadership of Rahman, Koalisi has produced some of the most thorough, timely, and accurate reporting on human rights violations in Aceh taking place in the midst of the war between the Indonesian army and police and the guerrilla forces of the "Free Aceh Movement." He has taken on the defense of some of Aceh's highest profile political prisoners. These include a student leader imprisoned for actively campaigning for a referendum on Aceh's political status and GAM (a coalition of Indonesian Human Rights Organizations) officials arrested for rebellion in the midst of negotiations with the Indonesian government.

Introduction

1. "Allah" is the Arabic name used by Christian as well as Muslim Arabs with reference to the One Lord-Creator, God.

2. Among the best and most accessible modern biographies of Prophet Muhammad are the following: Karen Armstrong, *Muhammad: A Biography of the Prophet* (London: Victor Collanz, 1991; repr. London: Phoenix Press, 2001); Martin Lings, *Muhammad: His Life Based on the Earliest Sources* (London: George Allen and Unwin, 1983); M. H. Haykal, *The Life of Muhammad*, trans. Ismail Raji al-Faruqi (Indianapolis, IN: American Trust Publications, 1976). Ibn Ishaq's classic biography, *Sirat Rasid Allah*, has been translated into English by A. Guillaume as *The Life of Muhammad* (Oxford: Oxford University Press, 1958).

3. Parts of this paragraph have been adapted from the author's short essay, *The Development of Fiqh in the Modern Muslim World* (Kuala Lumpur, Malaysia: IKIM; United Kingdom: Cardiff Academic Press, 1996).

4. John L. Esposito, Foreword, in Yvonne Yazbeck Haddad, ed., *Muslims in the West—From Sojourners to Citizens* (Oxford and New York: Oxford University Press, 2002), vii.

5. See full texts in Ibn Ishaq, op. cit., as well as discussions of the subject in the works by Armstrong, Lings, and Haykal, op. cit. Excerpts from the two charters are included in chapter 7 of this book.

6. W. M. Watt, *Islam and the Integration of Society* (London: Routledge and Kegan, 1961), 1.

7. One of the best modern works on Islamic history is Marshall G. S. Hodgson, *The Venture of Islam—Conscience and History in a World Civilization*, vols. 1–3 (Chicago and London: University of Chicago Press, 1974). A useful, general survey is I. M. Lapidus, *A History of Islamic Societies* (Cambridge: Cambridge University Press, 1988).

8. G. E. Von Grunbaum, *Modern Islam: The Search for Cultural Identity* (Berkeley and Los Angeles: University of California Press, 1962), 1.
9. T. W. Arnold, *The Preaching of Islam: A History of the Propagation of the Muslim Faith* (Delhi: n.p., 1914; London: Darf Publishers, 1986), 218–253.
10. Ibid., 312ff. See also: I. M. Lewis, ed., *Islam in Tropical Africa* (London: Routledge, 1966); Nehemia Levtzion, ed., *Conversion to Islam* (London and New York: Holmes and Meier Publishers, 1979); Ali Kose, *Conversion to Islam: A Study of Native British Converts* (London and New York: Kegan Paul International, 1996); Jeffrey Lang, *Struggling to Surrender: Some Impressions of an American Convert to Islam* (Beltsville, MD: Amana Publications, 1994); and Carol Anway, *Daughters of Another Path: Experiences of American Women Choosing Islam* (Lee's Summit, MO: Yawna Pub., 1996).
11. See, for example, Larry Poston, *Islamic Da'wah in the West* (New York and Oxford: Oxford University Press, 1992) and Jorgen Nielsen, *Muslims in Western Europe* (Edinburgh: Edinburgh University Press, 1992, 1995).
12. Qur'an 30:30 (Al-Rum) and 7:173 (Al-A'raf).
13. Muhammad Asad's commentary on Qur'an 30:30 and 7:173 in *The Message of the Qur'an* (Gibraltar: Dar al-Andalus, 1980), 230, 621.
14. Qur'an 2:256 (Al-Baqara).
15. Qur'an 12:53 (Yusuf).
16. Qur'an 75:12 (Al-Qiyama).
17. Qur'an 8:27 (Al-Fajr). There are several good introductions to the ethics and spirituality of Islam available in English. Among these are: Annemarie Schimmel, *Deciphering the Signs of God* (Albany: State University of New York Press, 1994); Majid Fakhry, *Ethical Theories in Islam* (Leiden, Netherlands, and New York: E. J. Brill, 1991); and Seyyed Hossein Nasr, ed., *Islamic Spirituality*, vols. 1–2 (New York, Crossroad, 1987, 1991).
18. Arnold, op. cit., 279.
19. Sir W. W. Hunter, *The Religions of India*, quoted in Arnold, op. cit., 280.
20. Edward Blyden, quoted in Robert W. Joly, "Nineteenth Century Negritude: Edward Blyden," *Journal of African History* V:1 (1964), 81–82. See also Robert W. Joly, *The Origins of Modern African Thought* (Trenton, NJ: Africa World Press), 225–227.
21. Ibid.
22. Quoted in Martin Prozesky, ed., *Christianity Amidst Apartheid* (London: Palgrave Macmillan, 1990), 62.
23. Joly, "Nineteenth Century Negritude: Edward Blyden." Interestingly, Blyden later wrote that "Mohammedanism is the form of Christianity best adapted to the negro race." Cf. Joly, *The Origins of Modern African Thought*, 227.
24. Quoted in Richard Brent Turner, *Islam in the African-American Experience* (Bloomington: Indiana University Press, 1997), 60.
25. Ibid.
26. Turner, op. cit., 61.
27. Aminah Beverly McCloud, *African American Islam* (New York and London, 1995), 10.
28. McCloud, op. cit., 10–94.
29. McCloud, op. cit., 27.

30. For a sensitive, informative account of Malcolm X's life and thinking, see Alex Haley, *The Autobiography of Malcolm X* (New York: Ballantine Books, 1965).
31. Jan Goodwin, *Price of Honour* (London: Little, Brown, 1994; New York: Warner Books, 1995), 24.
32. Cf. Carol L. Anway, "American Women Choosing Islam," in Yvonne Yazbeck Haddad and John L. Esposito, eds., *Muslims on the Americanization Path?* (Oxford and New York: Oxford University Press, 1998), 145ff. It is interesting to note that two of the women covered in Anway's survey had been divorced from Muslim husbands and only after their divorces began their search and reading about Islam, which led to their conversions.
33. Cf. books mentioned in note 10, above. A good introduction to Islamic civilization is Ismail R. al-Faruqi, and Lois Lamya' al-Faruqi, *The Cultural Atlas of Islam* (New York and London: Collier Macmillan, 1986).
34. As a delegate to the United Nations General Assembly sessions of 1965 and 1966, representing the then recently restored civilian governments of the Sudan, the author had the honor of participating in, as well as observing, the many meetings and debates that took place in the Third Committee, the General Assembly, and elsewhere leading to the adoption in 1965 of the International Convention on the Elimination of All Forms of Racial Discrimination and, a year later, of the two Human Rights Covenants of 1966.
35. See, for example, Joanne R. Baver and Daniel A. Bell, eds., *The East Asian Challenge for Human Rights* (New York: Cambridge University Press, 1988).
36. "Negritude" and "the African Personality" were favorite themes—and rival ideologies—advocated, inter alia, by former presidents Leopold Sedar Senghor of Senegal and Kwame Nkrumah of Ghana.
37. John Witte Jr., "Introduction," in John Witte Jr. and Johan D. van der Vyver, eds., *Religious Human Rights in Global Perspectives: Religious Perspectives* (The Hague: Martinus Nijhoff, 1996), xxi. For an earlier reference to the same point, see Muddathir 'Abd al-Rahim, "Fikrat Huquq al-Insan" [The Idea of Human Rights], in Muddathir 'Abd al-Rahim, ed., *Huquq al-Insan Bayna'l Mabda' wa'l Ta'biq* [Human Rights in Theory and Practice], (Beirut: Dar al-Fikr, 1968), 12–13. The only book on the subject to be published when the Arab League's Regional Conference was convened in Beirut, December 1968, to celebrate the twentieth anniversary of the UDHR, *Huquq al-Insan Bayna'l Mabda' wa'l Ta'biq* was reviewed in *Al-Siyasa al-Dawliyya*, Cairo, early in 1969.
38. Martin Marty, "Religious Dimensions of Human Rights," and Brian Turney, "Religious Rights: An Historical Perspective." Notes 1–6 and 17–45, respectively.
39. Heiner Bielefeldt, "Secular Human Rights: Challenges and Opportunity to Christians and Muslims," in *Islam And Christian: Muslim Relations*, 7: 3 (October 1966), 311–312.
40. Robert Traer, *Faith in Human Rights: Support in Religious Traditions for a Global Struggle* (Washington, DC: Georgetown University Press, 1991); Abdullahi A. An-Na'im, "Islamic Foundations of Religious Human Rights," in Witte, *Religious Human Rights*, 337–359.
41. Chandra Muzaffar, *Rights, Religion and Reform: Enhancing Human Dignity through Spiritual and Moral Transformation* (London and New York: Routledge Curzon, 2002), 98–99.

42. Arvind Sharma, "Towards a Declaration of Human Rights by the World Religions," in Joseph Runzo, Nancy M. Martin, and Arvind Sharma, eds., *Human Rights and Responsibilities in the World Religions* (Oxford: OneWorld, 2003), 131.

43. Ibid., 132.

44. See note 8.

45. David Little, John Kelsay, and Abdulaziz Sachedina, *Human Rights and the Conflict of Cultures* (Columbia: University of South Carolina Press, 1988), 32–50.

46. See, for example, Trevor Mostyn, *Censorship in Islamic Societies* (London: Saqi Books, 2002).

47. This view is clearly and forcefully reflected in Jack Donnelly's argument that although modern notions of human rights have been incubated in Western history, they alone are of universal (or "near universal") validity since they uniquely relate to human beings as human beings and not as belonging to this or that cultural, civilizational, or religious tradition whether Asian, African, Islamic, or, indeed, premodern European. Although all of these undoubtedly have notions of human dignity, none of them, according to Donnelly, can correctly be said to possess any real human rights tradition per se. John Donnelly, *Universal Human Rights in Theory and Practice* (Ithaca and London: Cornell University Press, 1989), 49ff.

48. A great thinker and one of the spiritually most sensitive souls in Islamic and, indeed, human history, Abu Hamid al-Ghazali (d. 1111) was profoundly saddened and deeply disturbed by the numerous compromises and downright deviations and decadence that by his time had already infected much of the political, social, and intellectual life of the Muslim world. Cf. Muddathir 'Abd al-Rahim, "Al-Ghazali's Political Thought: Its Nature and Contemporary Relevance" in the forthcoming volume, *Hujjat al-Islam al-Ghazali*, containing a selection of papers presented at the International Colloquium on Abu Hamid, which was convened by the International Institute of Islamic Thought and Civilization (ISTAC), Kuala Lumpur, Malaysia, October 2001. A highly sensitive and perceptive review of developments throughout Islamic history is Marshall G. S. Hodgson's three-volume study, entitled *The Venture of Islam: Conscience and History in a World Civilization* (Chicago and London: University of Chicago Press, 1974).

49. See, for example, Katerina Dalacoura, "It's Not a Bad Time to Be a Middle Eastern Dictator," *Observer*, March 30, 2003, and the revealing report on American and British policies vis-à-vis women's rights in Afghanistan, Natasha Walter, "Nobel Intentions," *Guardian*, October 13, 2003.

50. One of the most rigorously argued presentations of this point of view is to be found in Umar Kasule's doctoral thesis, "Islam and Human Rights: A Critique of Contemporary Muslim Approaches." Comparable in the clarity and forcefulness with which it is argued to Donnelly's on the other end of the spectrum (cf. note 47 above), Kasule's work is due to be published by the International Institute of Islamic Thought and Civilization (ISTAC), Malaysia, in 2005.

51. Ibid., 25–26.

52. Cited in *International Herald Tribune*, Saturday, October 11, 2003.

53. Ibid.

Chapter 1. Some Distinctive Features of the Human Rights Tradition in Islam

1. John Witte Jr., "Introduction," in John Witte Jr. and Johan D. van der Vyver, eds., *Religious Human Rights in Global Perspectives: Religious Perspectives* (The Hague: Martinus Nijhoff, 1966), xxi.

2. Count Léon Ostrorog, LLD, *The Angora Reform* (London: University of London Press, 1927), 30.

3. Nabil Matar, "John Locke and the 'Turbanned Nations,'" *Journal of Islamic Studies* 2:1 (1991), 72.

4. John Locke, *A Letter Concerning Toleration*, introd. Patrick Remanell (New York: Bob Merrill, 1955), 25, cited in Ibid. See also *The Works of John Locke—A New Edition, Corrected*, vol. VI (Aalen, Germany: Scientia Verlag, 1963), 18.

5. C. G. Weeramantry, *Islamic Jurisprudence: An International Perspective* (New York: Macmillan; London: St. Martin's Press, 1988; Petaling Jaya, Malaysia: The Other Press, 2001), 94ff. For the wider context and background, see Sir Thomas Arnold and Alfred Guillaume, eds., *The Legacy of Islam* (Oxford: Oxford University Press, 1931); J. Schacht and C. E. Bosworth, *The Legacy of Islam* (Oxford: Oxford University Press, 1974); and W. M. Watt, *The Influence of Islam on Medieval Europe*, 2nd ed. (Edinburgh: Edinburgh University Press, 1972, 1987).

6. In addition to the books that have just been mentioned in note 5, the following should be of interest in this connection: M.J.L. Young, J. D. Latham, and R. B. Serjeant, eds., *Religion, Learning and Science in the 'Abbasid Period* (Cambridge: Cambridge University Press, 1990); D. R. Hill, "Studies in Medieval Islamic Technology," *Variorum Collected Studies Series* (London: Ashgate, 1988); Roshdi Rashed, ed., *Encyclopaedia of the History of Arabic Science*, vols. 1–3 (London and New York: Routledge, 1996); Abraham L. Udovitch, *Partnership and Profit in Medieval Islam* (Princeton, NJ: Princeton University Press, 1970); Dimitri Gutas, *Greek Thought, Arabic Culture* (London and New York: Routledge, 1998); and Fazlur Rahman, *Health and Medicine in the Islamic Tradition*, reprint (Kuala Lumpur, Malaysia: 1993).

7. See, for example, W. M. Watt and Pierre Cachia, *A History of Islamic Spain* (Edinburgh: Edinburgh University Press, 1965, 1992); Aziz Ahmad, *A History of Islamic Sicily* (Edinburgh: Edinburgh University Press, 1975).

8. Norberto Bobbio, *The Age of Rights* (Oxford: Polity Press, Cambridge, and Blackwell Publishers, 1996), 87. It is worth noting in this connection that, judging by the extraordinary enthusiasm and determination by which the republic, from President Chirac down, has recently been convulsed to act against the perceived danger to the state of young girls wearing headscarves in schools, it seems that the religious fervor with which secularism is being defended in France today is at least as strong and impassioned as it was in Tocqueville's days. Appalled by the frenzied spectacle, one may even wonder whether secularism itself has in fact become a new religion—an antifaith religion, so to speak? See, for example, Eliane Sciolino, "Guarding Secularism Religiously in France," *International Herald Tribune*, February 9, 2004.

9. Ibid., 83.

10. Ibid., 7. See also Adamantia Pollis and Peter Schwab, "Human Rights: A Western Construct with Limited Applicability," in Pollis and Schwab, eds., *Human Rights: Cultural and Ideological Perspectives* (New York: Praeger, 1979), 1–18.

11. Qur'an 2:256 (al-Baqarah).

12. The debate between Zafrullah Khan and Jamil al-Barudi is reported in some considerable detail in David Little, John Kelsay, and Abdulaziz A. Sachadina, *Human Rights and the Conflict of Cultures* (Columbia: University of South Carolina, 1988), 33–52.

13. Quoted in Tabit Korayem, "Arab Islamic Developments in Human Rights," *Arab Law Quarterly* 16 (Part 3, 2001).

14. David Little, et al., 33–52.

15. Jack Donnelly, *Universal Human Rights in Theory and Practice* (Ithaca and London: Cornell University Press, 1989), 50.

16. Ibid.

17. Quoted in Weeramantry, 119–120.

18. Katerina Dalacoura, *Islam, Liberalism and Human Rights* (London: Taurus, 2003), 39. Weeramantry, 117.

20. See the entry on *haq* in the classical lexicographical dictionary *Lisan al-'Arab* of Ibn Manzur.

21. Qur'an 30:47 (Al-rum).

22. Muhammad Asad, *The Message of the Qur'an* (Gibraltar: Dar al-Andalus, 1980), 624.

23. See, for example, Qur'an 2:282, 7:30, 28:63, 6:62, 31:30, 22:6, and 20:114.

Chapter 2. Basic Teachings and Principles

1. Qur'an 17:70 (Al-Isra').

2. The *Routledge Encyclopedia of Philosophy*, S.V. entry "Human Nature." Jack Donnelly also stated that there is probably no topic in moral or political philosophy more controversial or intractable than theories of the essential moral nature of human beings and added that he was certainly unable to say anything new or decisive in defense of any of the existing theories thereof, in *Universal Human Rights in Theory and Practice* (Ithaca and London: Cornell University Press, 1989), 22–23.

3. The term *worldview* is the English equivalent of the German *Weltanschauung*, which, first coined by Immanuel Kant in *The Critique of Judgment* in 1790, derives from the German *Welt*, for world, and *Anschauung*, for perception, meaning, simply, the sense perception of the world. Having since been used in a wide variety of senses by Hegel, Gadamer, Nietzsche, and Dilthey, among others, it is now defined by the *Oxford English Dictionary* (1989) as "a particular philosophy or view of life, a concept of the world held by an individual or a group." See David K. Naugle, *Worldview: The History of a Concept* (Grand Rapids, MI, and Cambridge: William B. Eerdmans Publishing Co., 2002), 58ff.

4. Ibid.

5. Syed Muhammad Naquib al-Attas, *Prolegomena to the Metaphysics of Islam* (Kuala Lumpur, Malaysia: ISTAC, 1995), 2–5. Accordingly, al-Attas points out that the correct rendering of the term *worldview* into Arabic must be *ru'yat al-Islam li al-wujud*, not *nazariyat al-Islam li al-kawn* as is often said.

6. See, for example, Qur'an 2:3, 50:33, and 67:12.

7. Syed Muhammad Naquib al-Attas, "The Worldview of Islam: An Outline," in Sharifah Shifa al-Attas, ed., *Islam and the Challenges of Modernity* (Kuala Lumpur, Malaysia: ISTAC, 1996), 26; and Muddathir 'Abd al-Rahim, "The Roots of Revolution in the Qur'an," *Dirasat Ifriqiyya* (Khartoum), no. 3 (April 1987), 9.

8. Al-Attas, op. cit., 28.

9. Fazlur Rahman, *Major Themes of the Qur'an* (Minneapolis, MN: Bibliotheca Islamica, 1989), 1. See also, Muhammad Fu'ad 'Abd al-Baqi, *al-Mu'jam al-Mufahras li-alfaz al-Qur'an al-Kaim* (Cairo: Dar al-Hadith, 1987).

10. Muhammad Asad's translation of 112:1–3 (*al-ikhlas*), *The Message of the Qur'an* (Gibraltar: Dar al-Andalus, 1980), 985.

11. Ibid.

12. Qur'an 57:3 (Al-Hadid).

13. Qur'an 52:35 (Al-Tur).

14. Qur'an 2:117 (Al-Baqarah); also, 36:82 (Yasin).

15. Qur'an 21:30 (Al-Anbiya').

16. Qur'an 41:10 (Fussilat).

17. Asad translates *w'al arda famashnaha fa ni'ma'l mahidin*: "And the earth have We spread out wide—and how well have We ordered it." But the word *mahidin*, from *mahid*, the Arabic term for a baby's cradle, cot, or bedding, is strongly suggestive by sound as well as derivation of the thoughtful and loving care with which parents would normally prepare a baby's cradle or bedding. The word *well* does not quite capture that significant and fine nuance or shade of meaning: Hence our suggested modification of the translation as stated in the text.

18. Qur'an 51:47 (Adh-Dhariyat).

19. Qur'an 27:88 (An-Nahl).

20. Qur'an 67:3–4 (Al-Mulk).

21. Rahman, op. cit., 3.

22. Ibid.

23. Qur'an 38:27 (Sad).

24. Qur'an 23:114 (Al-Mu'minun).

25. It is interesting to note that the same terms, *aya* and its plural *ayat*, meaning sign/signs or message/messages, are used in the Qur'an with reference both to verses of the Holy Book and to those aspects of finite and contingent nature that point beyond itself to the infinite and eternal Lord—Creator and sustainer, God.

26. Qur'an 3:190–193 (Al-Imran).

27. Qur'an 7:173 (Al-A'raf).

28. Seyyed Hossein Nasr, "God," in S. H. Nasr, ed., *Islamic Spirituality: Foundations* (New York: Crossroad, 1997), 313. Nasr's statement is based on the categorically stated position of the Qur'an: "Verily, God does not forgive the ascribing of divinity to aught beside Him, although He forgives any lesser sin unto whomever He wills: for he who ascribes divinity to aught beside God has indeed antrived an awesome sin" (Qur'an 4:48).

29. Qur'an 20:14 (Taha).

30. Qur'an 23:91 (Al-Mu'minun).

31. Qur'an 95:4 (Ar-Tin).
32. Qur'an 15:29, 32, 31:9, 23:12-14.
33. Qur'an 2:30-24 (Al-Baqarah).
34. Qur'an 3:1 (An-Nisa').
35. Qur'an 2:35-38 (Al-Baqarah).
36. Qur'an 45:13 (Al-Jathiya).
37. Qur'an 31:20 (Luqman).
38. Qur'an 16:10-18 (An-Nahl).
39. Qur'an 17:70 (Al-Isra'), more fully quoted in note 1 above.
40. Qur'an 2:256 (Al-Baqarah).
41. Qur'an 18:29 (Al-Kahf).
42. Qur'an 1:6 (Al-Fatihah).
43. Qur'an 33:72 (Al-Ahzab).
44. Major landmarks on this long and often arduous spiritual and moral journey include a stage at which the human soul is described in the Qur'an as "certainly prone to evil" (12:53) and another at which it becomes "self reproaching" and anxious to eschew evil (75:12) but finally emerges as a "righteous soul" that would then be called upon to "come back Thou to Thy Lord" and thus rest in complete tranquility and satisfaction (8:27).
45. Qur'an 41:49-51 (Fussilat); also, 11:9-11 (Hud).
46. Qur'an 18:103-105 (Al-Kahf).
47. Qur'an 50:16 (Qaf).
48. The Qur'an repeatedly affirms that the core message of all the prophets was to call mankind to acknowledge and submit to the one and only God—that is, to be Muslim. Prophet Muhammad is accordingly described in the Qur'an as the final or concluding messenger, *khatam al-nabiyin*, whose role as such was merely to complete, perfect, and reaffirm the primordial message of his predecessors, all of whom (like the heavens and the earth and all that is in between, or nature) are also described in the Qur'an as Muslims, who were obedient to God.
49. Al-Alusi, *Ruh al-Ma'ani fi Tafsir al-Qur'an al-'Azim*, vol. 15 [n.d.], 117.
50. Mohammad Hashim Kamali, *The Dignity of Man: The Islamic Perspective* (Petaling Jaya, Malaysia: Ilmiah Publishers; Leicestershire, England: Islamic Foundation; Markfield, 1999), 14.
51. Wahba Al-Zuhaili, *Al-Fiqh al-Islami*, quoted in *Ibid.*, vol. 6, 720.
52. Abu Hamid al-Ghazali, *Ihya' 'ulum al-Din*, 4th ed., vol. 2 (Beirut: Dar al-khayr, 1997), 90ff.
53. *Ibid.*, 113ff.
54. Qur'an 2:233 (Al-Baqarah).
55. Qur'an 4:5-6 (An-Nisa').
56. Qur'an 16:58-60 (An-Nahl).
57. Qur'an 81:8 (Al-Takwir).
58. Qur'an 17:31 (Al-Isra'). In Surat al-An'am (6:151), it also says, "do not kill your children for fear of poverty—[for] it is we who shall provide sustenance for you as well as for them."

59. Qur'an 6:151 (Al-An'am).
60. Qur'an 5:32 (Al-Ma'idah).
61. See, for example, Shaykh Mahmud Shaltut, *Al-Fatawa*, 15th ed. (Cairo and Beirut: Dar al-Shuruq, 1988), 289-290; and Marion Holmes Katz, "The Problem of Abortion in Classical Sunni Fiqh," in Jonathan E. Brockopp, ed., *Islamic Ethics of Life: Abortion, War, and Euthanasia* (Columbia: University of South Carolina Press, 2003), 30-31.
62. Katz, op. cit., 110-111.
63. Shaltut, op. cit., 290-292.
64. Al-Mawardi, *al-Ahkam al-Sultaniyya* (Beirut: Dar al-kutub al-'Ilmiyya, 1985), 252; Ibn Sallam, in Muhammad 'Amarah, ed., *Kitab al-Amwal* (Cairo and Beirut: Dar al-Shuruq, 1989), 329; and Abu-Yusuf, *Kitab al-Kharaj*, in Ihsan Abbas, ed. (Beirut and Cairo: Dar al-Shuruq, 1985), 48.
65. It was also in this context that innumerable hospitals (or maristans) provided free medical care for all, while literally thousands of libraries and *madrasas*, or schools and university colleges, were established, where accommodation, food, and education were gratuitously provided for students. See George Makdisi, *The Rise of Humanism in Classical Islam and the Christian West* (Edinburgh: Edinburgh University Press, 1981), and *The Rise of Colleges and Institutions of Learning in Islam and the West* (Edinburgh: Edinburgh University Press, 1981); see also, Bayard Dodge, *Muslim Education in Medieval Times* (Washington, DC: Middle East Institute, 1962), and *Al-Azhar: A Millennium of Muslim Learning* (Washington, DC: Middle East Institute, 1961).
66. Qur'an 17:23-24 (Al-Isra').
67. Qur'an 31:14-15 (Luqman).
68. See Norman Daniel, *Islam and the West: The Making of an Image* (Edinburgh: Edinburgh University Press, 1960, 1993; revised edition, Oxford: Oneworld, 1993, 1997); Edward Said's classic work, *Orientalism: Western Conceptions of the Orient* (London: Penguin Books, 1985); also, his insightful *Covering Islam: How the Media and the Experts Determine How We See the Rest of the World* (London: Vintage, 1997).
69. Qur'an 4:1 (An-Nisa').
70. Qur'an 3:195 (Al-Imran); also 16:97 (An-Nahl).
71. Qur'an 30:21 (Ar-Rum).
72. Qur'an 16:72 (An-Nahl).
73. Sometimes only a small sum is paid in advance, the balance—often a relatively large or substantial sum—being deferred. The idea, in part, was to induce a husband who may at some future date precipitately wish to consider divorcing his wife to think twice before taking the drastic step when he would be required to pay up the balance before having his way.
74. Jan Goodwin, *Price of Honour: Muslim Women Lift the Veil of Silence on the Islamic World* (Boston: Little, Brown, 1994; reprint, London: Warner Books, 1995), 30.
75. Qur'an 4:34 (An-Nisa').
76. Asad's comment in note 42.
77. Qur'an 4:34 (An-Nisa').
78. Qur'an 4-19 (An-Nisa').
79. Qur'an 4-35 (An-Nisa').

80. Qur'an 2:228 (Al-Baqarah).
81. Qur'an 4:34 (An-Nisa').
82. Qur'an 45:13 (Al-Jathiyah).
83. Qur'an 67:3 (Al-Mulk).
84. Qur'an 7:32-33 (Al-A'raf).
85. Qur'an 5:87 (Al-Ma'idah).
86. Sahih al-Bukhari, *Translation of the Meanings of Sahih al-Bukhari*, trans. Muhammad Muhsin Khan, vol. 110-111 (New Delhi: Kitab Bhavan, 1984).
87. Al-Ghazali, *Al-Iqtisad fi'l-Itiqad* (Beirut: Dar al-Kutub al-'Ilmiyya, 1983), 148.
88. Ibid. Also, Al-Ghazali, *Fada'ih al-Batiniyya* (Amman: Dar al-Bashir, 1993), 124-127.
89. *Ihya'*, vol. 2, 122ff.
90. On *hisba*, see, for example, *The Encyclopedia of Islam*.
91. Ali al-Khafif, *Ahkam al-Mu'amalat al-Shari'yya* (Cairo, 1947), 34.
92. Qur'an 3:130-135 (Al-Imran).
93. Qur'an 2:261-274 (Al-Baqarah).
94. Qur'an 9:60 (Al-tawba).
95. Qur'an 70:24-25 (Al-Ma'arij).
96. Qur'an 9:103 (At-Tawbah).
97. Qur'an 17:26-27 (Al-Isra').
98. Qur'an 25:67 (Al-Furqan).
99. Quoted in Oussama Arabi, *Studies in Modern Islamic Law and Jurisprudence* (The Hague, London, and New York: Kluwer Law International, 2001), 101.
100. Ibn Rushd, *Bidayat al-Mujtahid wa Nihayat al-Muqtasid*, cited in Arabi, op. cit., 103.
101. Al-Ghazali, *Fada'ih al-Batiniyya*, 147ff.
102. Qur'an 24:27-28 (An-Nur).
103. Qur'an 49:12 (Al-Hujurat).
104. Qur'an 49:11, 13 (Al-Hujurat).
105. Qur'an 3:104 (Al-Imran).
106. Muslim, on the authority of Abu Sa'ed al-Khaidri, cited in Muhammad Asad, *The Principles of State and Government in Islam* (Gibraltar: Dar al-Andalus, 1980), 77.
107. See, for example, Michael Cook, *Commanding Right and Forbidding Wrong in Islamic Thought* (Cambridge: Cambridge University Press, 2000).
108. Qur'an 49:9-10 (Al-Hujurat).
109. Qur'an 5:2 (Al-Ma'idah).
110. Al-Ghazali, *Fada'ih al-Batiniyya*, 161ff.
111. See, for example, R. Walzer, *Al-Farabi on the Perfect State* (Oxford: Oxford University Press, 1985); Al-Mawardi, *The Ordinances of Government* (Reading, UK: Garnet, 1996); and Nizam al-Mulk, *The Book of Government*, trans. H. Darke, 2nd ed. (London: Routledge and Kegan Paul, 1978).
112. Qur'an 42:38 (Ash-Shura).
113. Qur'an 3:158 (Al-Imran).
114. For a variety of perspectives on justice in Islam, see Majid Khaddure, *The Islamic Conception of Justice* (Baltimore and London: Johns Hopkins University Press, 1984); Abdulaziz Abdulhussein Sachedina, *The Just Ruler in Shi'ite Islam* (New York and Oxford: Oxford University Press, 1988); and Sayyid Qutb, *Social Justice in Islam*, trans. J. B. Hardie and Hamid Algar (Petaling Jaya, Malaysia: Islamic Book Trust, 2000).
115. Qur'an 4:135 (An-Nisa').
116. Qur'an 5:8 (Al-Ma'idah).
117. Qur'an 4:58 (An-Nisa').
118. Qur'an 4:59 (An-Nisa').
119. Al-Bukhari and Muslim, on the authority of Ibn 'Umar, cited in Muhammad Asad, op. cit., 36.
120. Ibn Hisham, *Sirat Rasul Allah [The Life of Muhammad]*, trans. Alfred Guillaume (Oxford: Oxford University Press, 1995), 687.
121. Cf. Mohammed Hashim Kamali, *Freedom of Expression in Islam* (Petaling Jaya, Malaysia: 'Ilmiyah Publications Sdn. Bhd, 1998).
122. Abu Da'ud, At-Tirmidhi, and Ibn Majah, on the authority of Abu Sa'id al-Khudri, cited in Asad, op. cit., 77.
123. See Al-Mawardi, op. cit., 87-106.
124. See chapter 1 of this book.
125. Qur'an 112 (Al-Ikhlash).
126. Qur'an 42:2 (Al-Shura).
127. Qur'an 21:22 (Al-Anbiya').
128. Qur'an 4:48 (An-Nisa').
129. Qur'an 35:27-28 (Fatir).
130. Qur'an 30:22 (Ar-Rum).
131. Qur'an 64:2 (Al-Taghabun).
132. Qur'an 5:48 (Al-Ma'idah).
133. Qur'an 2:256 (Al-Baqarah).
134. Qur'an 2:190 (Al-Baqarah).
135. Qur'an 60:8-9 (Al-Mumtahanah).
136. Qur'an 2:190 (Al-Baqarah).
137. Majid Khadduri's translation of a *hadith* cited by al-Shaybani at the beginning of his classic *Kitab al-Siyar*, published with the title *The Islamic Law of Nations* (Baltimore, MD: Johns Hopkins University Press, 1966), 75-76.
138. Ibn 'Abd Rabbih, *al-'Iqd al-Farid*, vol. 4 (Beirut: Dar al-Kitab al-'Arabi, 1983), 247.
139. Qur'an 9:6 (At-Tawbah).
140. Al-Razi's Tafseer on the said passage in Surah at-Tawbah, Qur'an 9:6, cited in Muddathir 'Abd al-Rahim, *Al-Islam wa Qadaya al-Liqa' wa'l-Laj'in*, published in *Al-Islam wa Qadaya al-'Asr al-Itima'iyya* (Amman: Royal Academy for Islamic Civilization Studies, 1997), 292-308.
141. Qur'an 8:61 (Al-Anfal). With regard to the treatment of prisoners of war, see, for example, Ayatullah al-Shaykh 'Ali al-Ahmad, *Al-Asir fi'l-Islam* (Qum, Iran: Mu'assasat al-nashr al-Islami, 1411 AH Lunar), 210ff.
142. Qur'an 6:38 (Al-An'am).
143. Cited in Muddathir 'Abd al-Rahim, "The Legal and Administrative Institutions of Islamic Cities," in R. B. Serjeant, ed., *The Islamic City* (Paris: UNESCO, in English, 1980; in Arabic, 1985).

144. Leon Evan Goodman, *The Case of the Animals Versus Man Before the King of Jin: A Tenth-Century Ecological Fable of the Pure Brethren of Basra* (Boston: Twayne Publishers, 1978). On al-Ma'arri and Dante, see Miguel Asín, *Islam and the Divine Comedy*, trans. Harold Sotherland (London: Frank Cass, 1968), 54–67.
145. Qur'an 2:11 (Al-Baqarah).
146. Qur'an 2:27 (Al-Baqarah).

Chapter 3. The Interplay of Theory and Practice: Questions of Gender and Minorities

1. Adam Mez, *The Renaissance of Islam* (London: Luzac & Co., 1937), 32.
2. Adam Mez, "Jews and the Muslim conquerors of Spain," in Norman A. Stillman, ed., *The Jews of Arab Lands, A History and Source Book* (Philadelphia: Jewish Publication Society, 1979), 54.
3. S. D. Goitein, *A Mediterranean Society* (Berkeley, Los Angeles, and London: University of California, 1971), vol. 2, 1, 403, 407.
4. Abu Yusuf, *Kitab al-Kharaj* (Beirut, n.d.), 122; Muhammad Hamidullah, *Muslim Conduct of State* (Lahore, Pakistan: Sh. Muhammad Ashraf, 1945), 100.
5. Abu Yusuf, op. cit., 122.
6. Raymond P. Scheindlin, "The Jews in Muslim Spain" in Salma Khadra Jayyusi, ed., *The Legacy of Muslim Spain* (Leiden: E. J. Brill, 1992), 188–200.
7. Ibid.
8. Cited in Bernard Lewis, *The Jews of Islam* (Princeton, NJ: Princeton University Press, 1984), 45.
9. Scheindlin, op. cit., 192.
10. Lewis, op. cit., 45.
11. Ibid.
12. Scheindlin, op. cit., 189.
13. Ibid., 198–199.
14. Joel L. Kramer, *Humanism in the Renaissance of Islam* (Leiden: Brill, 1992), 85.
15. Ibid., 77–78.
16. Ibid., 86.
17. Ibid., 76–77.
18. Ibid., 78.
19. Ibid., 76.
20. Ibid., 79.
21. Mez, *The Renaissance*, 51; see also, Yaacov Lev, *State and Society in Fatimid Egypt* (Leiden: E. J. Brill, 1991), 190–191.
22. Mez, *The Renaissance*, 55.
23. Ibid.
24. Ibid., 58.
25. J. J. Saunders, *A History of Medieval Islam* (London: Routledge and Kegan Paul, 1939), 137–138.
26. Mez, *The Renaissance*, 56; and Lev, op. cit., 190.

27. Lewis, *The Jews*, 54.
28. Ibid.
29. Ibid., 54–55.
30. Ibid., 55.
31. Quoted in Lewis, 43–44. For a more detailed account, see Stanford J. Shaw, *The Jews of the Ottoman Empire* (Houndmills, UK: Macmillan, 1991).
32. Lewis, 44.
33. Stanford Shaw, *History of the Ottoman and Modern Turkey*, vols. 1 and 2 (London: Cambridge University Press, 1976, 1977).
34. Ibid.; Also, Bernard Lewis, *The Emergence of Modern Turkey* (Oxford: Oxford University Press, 1968); Erik J. Zürcher, *Turkey: A Modern History* (London: B. Tauris, 1993).
35. See, for example, Elie Kedourie, *Politics in the Middle East* (Oxford: Oxford University Press, 1992); R. Owen, *State, Power and Politics: The Making of the Modern Middle East* (London: Routledge, 1992).
36. Edward Said, *The Politics of Dispossession* (London: Vintage, 1995), 388–389.
37. See, for example, Noel Malcolm, *Bosnia: A Short History* (London: Macmillan, 1996), especially chapters 15 and 16.
38. See W. Montgomery Watt, *Islam and the Integration of Society* (London: Routledge, 1961); Muddathir 'Abd al-Rahim, "Islam and Social Integration," *IKTM Journal* 4:1 (January–June 1996), 74–93.
39. Kedourie, *Politics*; Hourani et al., *The Modern*; and Owen, *State*.
40. See, for example, Gerard Challand, ed., *A People Without A Country* (London: Zed Press, 1993).
41. Nikki R. Keddie, *Iran and the Muslim World* (London: Macmillan, 1995). See especially chapter 8, "The Minorities Question in Iran."
42. Quoted in Muddathir 'Abd al-Rahim, *Imperialism and Nationalism in the Sudan* (Oxford: Clarendon Press, 1969), 8, note 1. Two years earlier, *Sunday Telegraph* and *Economist* made the same point (November 10 and 23, 1963, respectively). Ibid.
43. Milton J. Esman, "Political and Psychological Factors in Ethnic Conflict" in Joseph V. Montville, ed., *Conflict and Peacemaking in Multiethnic Societies* (New York: Lexington, 1990), 62.
44. "Israelis Using Kurds to Build Power Base," *Guardian*, June 21, 2004. The *Guardian's* report is based on an article written by the Pulitzer Prize-winning reporter Seymour Hersh, which had earlier been published in the *New Yorker* magazine.
45. Jan Goodwin, *Price of Honor: Muslim Women Lift the Veil of Silence on the Islamic World* (New York: Werner Books, 1995), 29ff.
46. Qur'an 16:97 (An-Nahl).
47. Qur'an 3:195 (Al-Imran).
48. Qur'an 33:35 (Al-Ahzab).
49. Al-Ghazali, *Ihya'*, 2:118–119.
50. Qur'an 24:30–31 (An-Nur).
51. Shehu (Shaykh) Usman Dan Fodio, *Irshad al-Ikhwan ila Ahkam Khuruj al-Niswan*. Photocopy of Sokoto document in the author's possession, with gratitude to Professor Amin Abu-Manga of Khartoum University.

52. Maria Jaschok and Shui Jingjun, *The History of Women's Mosques in Chinese Islam: A Mosque of Their Own* (Surrey, UK: Curzon Press, 2000).
53. <http://web.amnesty.org/web/web/print/scandal> dated 10/06/2004.
54. Ibid.
55. Amnesty International, "Turkey: Women Confronting Family Violence," <http://web.amnesty.org/library/print/ENGEUR440132004> dated 04/06/2004.
56. Ibid., 10–17.
57. Muhammad al-Ghazali, *Al-Sunna al-Nabawiyya bayn ahl al-fiqh wa ahl al-hadith* (Beirut and Cairo: Dar al-Shuraq, 1989), 46.
58. *Guardian*, May 7, 2004.
59. Al-Imam al-Akbar Mahmud Shaltut, *al-Fatawa*, 15th ed. (Cairo and Beirut: Dar al-Shuraq, 1988), 232.
60. Ibid., 334. Oddly enough, Dr. Amal Ahmad al-Bashir of the Faculty of Medicine, University of Khartoum, published a pamphlet on FGM entitled "Khitan al-Untha fi'l Tibb wa'l Islam" (Khartoum: Matabi' al-Sudan li'l-Tumla, 1997) in which she quotes certain parts of Shaykh Shaltut's statement but completely misrepresents his views, wrongly giving the impression that he approves of the practice, whereas, in fact, he says that there is nothing whatsoever in *shari'a*, ethics, or medicine to justify female circumcision "la Shar'an wa la khaluqan, wa la tibban."
61. Thus, in December 2003, it was reported that Pakistan's Supreme Court had recently "declared that adult Muslim women can marry anyone of their own free will," thereby overturning an earlier verdict by a high court that a marriage concluded without the prior consent of a father or brother was invalid. The controversy had reportedly started in 1997; BBCNEWS world edition, December 19, 2003.

Chapter 4. Decline, Colonial Domination, and the Quest for Revival and Reconstruction

1. See, for example, Ismail R. al-Faruqi and Lois Lamya' al-Faruqi, *The Cultural Atlas of Islam* (New York: Macmillan, 1986) and the books cited in notes 5, 6, and 7 to chapter 1.
2. A good one-volume survey is I. M. Lapidus, *A History of Islamic Societies* (Cambridge: Cambridge University Press, 1988). One of the best modern classics on Islamic history is Marshall G. S. Hodgson, *The Venture of Islam: Conscience and History in a World Civilization*, vols. 1–3 (Chicago and London: University of Chicago Press, 1974).
3. The best account of the subject is John Obert Voll, *Islam: Continuity and Change in the Modern World*, 2nd ed. (Syracuse, NY: Syracuse University Press, 1994). See also Ibrahim M. Abu Rabi', *Intellectual Origins of Islamic Resurgence in the Modern Arab World* (Albany: State University of New York Press, 1996).
4. Hamilton A. R. Gibb, "Al-Mawardi's Theory of the Caliphate," in *Studies on the Civilization of Islam* (Princeton, NJ: Princeton University Press, 1982), 151–165.
5. Al-Ghazali, *Al-Iqtisad fi'l-'iqad* [The Golden Mean in Belief] (Beirut: Dar al-Kutub al-'Ilmiyyah, 1983), 151.
6. Gibb, *op. cit.*, 149–150.
7. Al-Ghazali, *Ihya'*, vol. 2, bk. 5, 110.

8. Ibid.
9. Gibb's translation of Ibn Jama'a's statement, *op. cit.*, 143.
10. Imam Badruddin Ibn Jama'a, *Tahrir al-ahkam fi tadbir ahl al-Islam*, ed. Fu'ad A. Ahmad, 2nd ed. (Qatar: Head Office, Shari'a Courts and Religious Affairs, 1987), 56.
11. Al-Ghazali, *Ihya'*, vol. 2, bk. 7, 92–93.
12. I have here used certain parts of the paper on "Al-Ghazali's Political Thought: Its Nature and Contemporary Relevance," which I contributed to the International Conference on al-Ghazali's Legacy: Its Contemporary Relevance, which was organized in October 2001 by the International Institute of Islamic Thought and Civilization (ISTAC) in Kuala Lumpur, Malaysia. This paper, together with some other selected papers, is due to be published in a book titled *Hujjat al-Islam* by ISTAC in 2005.
13. Ahmad Baba al-Tunbukti, *Nayl al-Ithnay bi-Tatiriz al-Dibaj* (Tripoli, Libya: 1989), 171.
14. The Russian foreign minister, Gorchakov, in a memorandum dated November 21, 1864, mentioned in A. N. Kurat's article on tsarist Russia and the Muslims of central Asia, published in P. M. Holt, K. S. Lambton, and B. Lewis, eds., *The Cambridge History of Islam*, vol. 1A (Cambridge: Cambridge University Press, 1992), 510.
15. Ibid., 517.
16. Sabrina Petra Ramet, ed., *Religious Policy in the Soviet Union* (Cambridge: Cambridge University Press, 1993), 3.
17. A. N. Kurat's article on Islam in the Soviet Union, published in *The Cambridge History of Islam*, vol. 1B, 628.
18. Ibid., 638.
19. Ibid., 639.
20. See, for example, K. H. Karpat, ed., *The Turks of Bulgaria: The History, Culture and Political Fate of a Minority* (Istanbul: The ISIS Press, [1990?]).
21. Apart from the arrogance implicit in trying to proselytize people who had already embraced Christianity and most of whom belonged to churches that are older than the Western churches, this mode of behavior is clearly indicative of the fact that the Western supporters of missionary work were motivated by political rather than religious considerations.
22. Andre Nouschi's article on North Africa in the period of colonization, *The Cambridge History of Islam*, vol. 2A, 303–304.
23. Ibid.
24. D. Washbrook, "State and Agrarian Society in Colonial India," *Modern Asian Studies* 15:3 (1981), cited in Michael Anderson, "Islamic Law and the Colonial Encounter in British India," in Chibli Mallat and Jane Connors, eds., *Islamic Family Law* (London and Boston: Graham & Trotman, 1993), 206.
25. M. Anderson, "Islamic Law," 206.
26. Ibid.
27. Asaf A. A. Fyzee, *Outline of Muhammadan Law*, 4th ed. (Delhi: Oxford University Press, 1987), 49.
28. Ibid.
29. Ibid.
30. Ibid., 56.

31. Fyze, op. cit., 50; and M. Anderson, "Islamic Law," 210.
32. M. Anderson, "Islamic Law," 209.
33. Ibid.
34. Ibid.
35. It should be noted in this connection that Muslim jurists, especially of the Hanafi and Maliki *madhabs*, have for long accepted customary practices (i.e. 'urf and 'adat) as valid, albeit secondary, sources or bases of legislation—provided they do not contradict a *naṣ*—a stated ruling or directive of either the Qur'an or *Siṣna*—an important proviso that was not unexpectedly set aside by the colonial rulers. On the nature of 'urf and 'adat and their place in Islamic jurisprudence, see, for example, 'Abd al-'Aziz al-Khayyat, *Nazariyyat al-'Urf* (Amman: Maktabat Al-Aqsa, 1977); Muhammad Abu Zahra, *Usul al-Fiqh al-Islami*, vol. 2 (Damascus, Syria: 1986), 828–837; Mustafa Ahmad al-Zarqa, *al-Fiqh al-Islami fi Thawabih al-Jadid*, 3rd ed., vol. 2 (Damascus, Syria: 1968), 833–940.
36. M. Anderson, "Islamic Law," 215.
37. Daniel S. Lev, *Islamic Courts in Indonesia: A Study in the Political Bases of Legal Institutions* (Berkeley: University of California Press, 1972), 5.
38. Ibid., 9.
39. Ibid., 10.
40. Ibid., 11.
41. Ibid., 13.
42. Ibid.
43. Lev describes the *penghulu* as "chief mosque administrator, who also, in addition to other duties, decides over the Islamic thoughts." Ibid., 12.
44. Quoted in Nouschi, in *The Cambridge History*, 324.
45. Ibid.
46. Annual Report for 1905, Egypt, no. 1 (1906), Cd 2 817, 125 quoted in Muddathir 'Abd al-Rahim, *Imperialism and Nationalism in the Sudan: A Study in Constitutional and Political Development 1899–1956* (Oxford: Clarendon Press, 1969), 73.
47. The present writer first tried to come to grips with this challenging subject in his youthful work, *Azmat al-Mujtama' al-Arabi al-Mu'asir al-Masa'la al-Hadariyya* [The Crisis of Modern Arab Society: The Civilizational Question] (Beirut: Dar al-Tali'a, 1963).
48. P. Kinnors, *Atatürk: The Birth of a Nation* (London: Weidenfeld, 1993), 437, 469.
49. Ibid.
50. Ibid., 437.
51. Kemal, on October 29, 1923, the day the Turkish Republic was founded, quoted in Nakur Versan, "The Kemalist Reform of Turkish Law and Its Impact," Jacob M. Landau, ed., *Atatürk and the Modernization of Turkey* (Boulder, CO, and Leiden, Netherlands: Westview Press, 1984), 247. The same idea was repeated several times in other statements of Kemal's, including his famous six-day long *Nutuk* (speech, in Turkish).
52. The directorate appointed imams, preachers, and *muezzins* and oversaw the institutions that trained them. It also controlled mosques and supervised *muftis* and gave them legal guidance. "In fact," it has rightly been concluded, "the lay Turkish state enjoyed greater authority in religious affairs than had the sultan—caliphs in their days"; see Paul Dumont, "The Origins of Kemalist Ideology," in Landau, *Atatürk*, 38.
53. S. J. Shaw and E. K. Shaw, *History of the Ottoman Empire and Modern Turkey* (Cambridge: Cambridge University Press, 1977 and 1992), 385.
54. H. J. Liebesny, *The Law of the Near and Middle East* (Albany: State University of New York Press, 1975), 78.
55. Ibid., 80.
56. P. Dumont, in Landau, *Atatürk*, 38.
57. Cf. Taha Husain, *Mustaqbal al-Thaqafa fi Misr* [The Future of Culture in Egypt] (an *nasir sirat al-urobiyyin*, wa *nasluka tariqahum linakuna lahum andadan*, wa *linakuna lahum shuraka*) fi'l-hadara, khayriha wa sharruha, hulwiha wa murriha, wa ma yuhabbu minha wa ma yukrah, wa ma yuhmadu minha wa ma yu'ab. The Beirut 1982 edition of the collected works, vol. 9, 54.
58. Capitulations were judicial and other privileges that were granted by Muslim rulers to subjects of foreign powers. See Herbert J. Liebesny, "The Development of Western Judicial Privileges" in Majid Kadduri and Herbert J. Liebesny, eds., *Law in the Middle East* (Washington, DC: Middle East Institute, 1955), 303–333.
59. Published between 1870 and 1877, *Majallat-I Ahkam Adliye*, the Book of Rules of Justice, codified Islamic (mainly Hanafi) principles of civil law. It was one of the major means adopted by the Ottoman Empire with a view to preserving Islamic institutions at a time of decline and rapid change. Al-Majalla, as it is generally referred to in Arabic, continued to be influential, especially in countries of the Arab east, long after the dissolution of the Ottoman Empire. See S. S. Onar, "The Majalla," in *Law in the Middle East*, 292–308. For an English-language translation of the full text, see C. R. Tyser, D. G. Demetriades, and Ismail Haqqi Effendi, *The Mejlle—Being an English Translation of Majallah El-Ahkam-I-Adliya and a Complete Code on Islamic Law* (Kuala Lumpur, Malaysia: Other Press, [2001]).
60. J.N.D. Anderson, "Law Reform in Egypt: 1850–1950" in P. M. Holt, ed., *Political and Social Change in Egypt* (Oxford: Oxford University Press, 1968), 217.
61. Ibid., 222.
62. See, for example, Joseph Schacht, *An Introduction to Islamic Law* (Oxford: Oxford University Press, 1964), 108–109.
63. Ibid. See also J.N.D. Anderson, *Islamic Law in the Modern World* (London: Stevens & Sons, 1959), 93; and N. J. Coustou, *A History of Islamic Law* (Edinburgh: Edinburgh University Press, 1964), 211.
64. Schacht and Bosworth, *The Legacy*, 87. King 'Abd al-'Aziz's suggestion was, however, taken up later. See Anderson.
65. Liebesny, *The Law*, 107. Article 6 of the Fundamental Law of the Hejaz reads: "Legislation in the Kingdom of the Hijaz shall always conform to the Book of God, the Sunna of the Prophet and the conduct of the Prophet's Companions and pious Followers."
66. Ibid., 107.
67. Schacht and Bosworth, *The Legacy*, 87; also Liebesny, *The Law*, 107.
68. J.N.D. Anderson, "Law Reform," 84.
69. Schacht, op. cit., 87; also Liebesny, 107.
70. Ibid., 87.

71. Ibid., 88.
72. Liebesny, *The Law*, 106–111.
73. Ibid.
74. Ibid.
75. Ibid.
76. Muhammad al-Ghazali, *Min Huna Na'alam* (Cairo: 1948), English translation by Ismail al-Faruqi, *Our Beginning in Wisdom* (New York: 1975), 21, quoted in Hamid Enayat, *Modern Islamic Political Thought* (Austin: University of Texas Press), 90.
77. Enayat, op. cit., 90.
78. Muhammad al-Ghazali, *Al-Sunna al-Nabawiyya bayna ahli'l fiqh wa ahli'l hadith* (Cairo and Beirut: Dar al-Shuruq, 1989).
79. Khaled Abou El Fadl, *Speaking in God's Name: Islamic Law, Authority, and Women* (Oxford: Oneworld, 2001).
80. Liebesny, *The Law*, 108–111.
81. See note 1 above; also, al-Zarqa', *al-Fiqh*, vols. 1 and 2.
82. Cf. N. J. Coulson, *A History of Islamic Law* (Edinburgh: Edinburgh University Press, 1964), 202.
83. See Shaw and Shaw, *A History of the Ottoman Empire and Modern Turkey*, vol. 2; Erik J. Zürcher, *Turkey: A Modern History* (London: I. B. Tauris, 1993); and Liebesny, *The Law*, 46–71.
84. Khadduri, *Law in the Middle East*, 292–308; Liebesny, *The Law*, 64–71.
85. Liebesny, *The Law*, 65.
86. Anderson's "Codification in the Muslim World" cited in ibid., 66.
87. Coulson, op. cit., 184–186.
88. Ibid., 193.
89. See note 1 of this section and the relevant part of text.
90. In this connection, the late N. J. Coulson is worth quoting in full: "In their search for authority from the corpus of juristic speculation the legislators had foraged beyond the legitimate bounds established by traditional jurisprudence. Individual and, from an orthodox standpoint, eccentric views held by scholars of bygone ages had been resurrected from the grave to which the general consensus of opinion had consigned them." Coulson, op. cit., 196–197.
91. Ibid., 216.
92. Ibid., 208.
93. Ibid., 210.
94. Ibid., 216.
95. Ibid., 196–197.
96. Two useful articles that may be consulted in this regard are Oussama Arabi, "Al-Sanhuri's Reconstruction of the Islamic Law of Contract Defects," *Journal of Islamic Studies* 6:2 (July 1995), and Enid Hill, "Islamic Law as a Source for the Development of a Comparative Jurisprudence: Theory and Practice in the Life and Work of Sanhuri," in Aziz al-Azmeh, ed., *Islamic Law: Social and Historical Contexts* (London: Routledge, 1988).

97. Major works by Sanhuri include *Al-Wasit fi Sharh al-Qanun al-Madani*, *Masadir al-Haq*, *Al-Mujaz fi'l Nazariyya al-'Ammah fi'l Itizam fi'l Qanun al-Madani al-Misri*, and *Al-Qanun al-Madani al-'Arabi*.

98. Hill, "Islamic Law as a Source," 152.

99. Sanhuri: "Ala ayy asas yakun tanqih al-Qanun, 119, quoted in Hill, "Islamic Law as a Source," 165.

100. Ibid., 166.

101. Ibid.

102. Hill, 186–190.

103. Sanhuri, *Al-Qanun al-Madani al-'Arabi*, 23; Ibid., 189.

104. Ibid., 172.

105. Ibid.

106. Ibid.

107. Sanhuri: *Le Califat*, 580–581; Ibid., 155.

108. Sanhuri: *Le Califat*, 171.

109. Tariq al-Bishri, "Al-Maq'ala al-Qanuniyya," quoted in Hill, "Islamic Law as a Source," 189.

110. Chibli Mallat, *The Renewal of Islamic Law: Muhammad Baqer as-Sadr, Najaf and the Shi'i International* (Cambridge: Cambridge University Press, 1993 and 1994), 189. See also, Rodney Wilson, "The Contribution of Muhamed Baqir al-Sadr to Contemporary Islamic Economic Thought," *Journal of Islamic Studies* 9:1 (1998), 46–59.

Chapter 5. Islam, Democracy, and Human Rights

1. For more detailed and interesting discussions of the subject, see, for example, Norberto Bobbio, *Democracy and Dictatorship: The Nature and Limits of State Power* (Oxford: Polity Press, 1997); Giovanni Sartori, *The Theory of Democracy Revisited* (Chatham, NJ: Chatham House Publishers, 1987); Carole Pateman, *Participation and Democratic Theory* (Cambridge: Cambridge University Press, 1970, 1995); Patrick Dunleavy and Brendan O'Leary, *Theories of the State: The Politics of Liberal Democracy* (New York: New Amsterdam Books, 1987); David Held, *Models of Democracy* (Oxford: Polity Press, 1987); and David Held, *Democracy and the Global Order* (Oxford: Polity Press, 1995).

2. Cf. G. John Ikenberry, "Dead End! The End of the Neo-Conservative Moment," in *Survival: The International Institute of Strategic Studies Quarterly* 46:1 (Spring 2004), 7–22.

3. Khayr al-Din al-Tunisi, *Aqam al-Masalik fi Ma'rifat Ahwal al-Mamalik*, trans. by L. C. Brown as *The Surest Path: The Political Treatise of a Nineteenth-Century Muslim Statesman* (Cambridge, MA: Harvard University Press, 1967), 74.

4. Cf. *Khatirat Jamal al-Din al-Afghani*; ed. Muhammad al-Makhzumi (Beirut: 1931) 46–47, 58, 91, 162–163 cited in Majid Khadduri, *Political Trends in the Arab World* (Baltimore and London: Johns Hopkins University Press, 1970), 30.

5. Cf. Muddathir Abdel-Rahim, *Changing Patterns of Civilian-Military Relations in the Sudan* (Uppsala, Sweden: Nordiska Afrikainstitutet, 1978). For developments in the pre-independence era, see Muddathir 'Abd al-Rahim, *Imperialism and Nationalism in the Sudan*:

A Study in Constitutional and Political Developments, 1899–1956 (Oxford: Clarendon Press, 1969).

6. Laith Kubba, "The Awakening of Civil Society," in Daniel Brumberg, Marc F. Plattner, and Larry Diamond, eds., *Islam and Democracy in the Middle East* (Baltimore and London: Johns Hopkins University Press, 2003), xxiii; 29–30; and Majid Khadduri, op. cit., 39–54.

7. Cited in Elie Kedourie, *Democracy and Arab Political Culture* (London: Frank Cass, 1994), 89.

8. See Kamal S. Abu Jaber, *The Arab Ba'ath Socialist Party: History, Ideology, and Organization* (Syracuse, NY: Syracuse University Press, 1966).

9. See Gilles Kepel, *Muslim Extremism in Egypt: The Prophet and Pharaoh* (Berkeley and Los Angeles: University of California Press, 1985 and 1993), especially chapters 3 and 7.

10. The many and clear examples of this trend include the considerable and multifaceted support that the United States extended to the Taliban after the Soviet invasion of Afghanistan, and to Saddam Hussein during the long and massively destructive war that he fought against Khomeini's Iran—during which the Halhja massacre took place.

11. Brumberg and Diamond, op. cit., ix.

12. Ibid.

13. "Freedom Calls at Last?", *Economist*, April 1, 2004.

14. UNDP, *The Arab Human Development Report 2002* (New York: UNDP/RBAS, 2002), 2.

15. UNDP, *Arab Human Development Report 2003* (New York: UNDP/RBAS, 2003), 28.

16. Brumberg and Diamond, op. cit., xiv, 35ff.

17. Ibid., xiv.

18. Ibid.

19. See, for example, *Economist*, April 1, 2004.

20. The Cairo Declaration on Human Rights in Islam, August 5, 1990. See the full text in Part II of this book.

21. The Press Research Centre for the People and the Press, "Democracy Can Work Here." <http://people-press.org/report/display,4>.

22. Ibid.

23. These are the terms in which the *Economist* describes moderate Islamists in its special survey of Islam two years after the attack on the World Trade Center in its issue of September 11, 2003.

24. See, for example, Owen Chadwick, *The Secularization of the European Mind in the Nineteenth Century* (Cambridge: Cambridge University Press, 1975 and 1993); Syed Muhammad Naquib al-Attas, *Islam and Secularism* (Kuala Lumpur, Malaysia: ISTAC, 1993); 'Adil Dahir, *al-Uusu al-Falsafiyya li'l-'Almaniyya* (London: Dar al-Saqi, 1993); and Azzam Tamimi and John Esposito, eds., *Islam and Secularism in the Middle East* (London: Hirst, 2000).

25. See chapter 1 in this book.

26. Cf. chapter 4.

27. Cf. Muhammad al-Khayr 'Abd al-Qadir, *Al-Islam wa'l Gharb* (Beirut and Khartoum: Dar al-Jil and al-Dar al-Sudaniyya, 1991), 58–63.

28. Cf. Ahmad Sulaiman, "Al-Haraka al-Shuy'iyya al-'Alamiyya wa'n-ikasaduha 'ala al-Sudan," in Muddathir 'Abd al-Rahim and al-Tayyib Zayn al-'Abidin, eds., *Al-Islam fi'l Sudan* (Khartoum: Dar al-Asalah, 1987), 315–357. See also, 'Abd al-Qadir, op. cit., 59–60.

29. Khadduri, op. cit., 57–58. See also, Khadduri, op. cit., 228–238.

30. Khadduri, op. cit., 61–62.

31. Cf. Muhammad Husain Haykal, *The Life of Muhammad*, trans. Ismail Raji al-Faruqi (Kuala Lumpur, Malaysia: Islamic Book Trust, 2002).

32. Cf. Ibrahim M. Abu Rabi', *Intellectual Origins of Islamic Resurgence in the Modern Arab World* (Albany: State University of New York Press, 1996); and Gilles Kepel, *Jihad: The Trail of Political Islam* (London and New York: I. B. Tauris Publishers, 2002). See also, Sayyid Qutb, *Social Justice in Islam*, trans. John B. Hardie and Hamid Algar (Kuala Lumpur, Malaysia: Islamic Book Trust, 2000).

33. See, for example, Heinz Halm, *Shi'a Islam: From Religion to Revolution*, (Princeton, NJ: Markovs Wiener Publishers, 1997); and Said Amir Arjomand, ed., *Authority and Political Culture in Shi'ism* (Albany: State University of New York Press, 1988). See also, Matti Moosa, *Extremist Shiites: The Ghulat Sects* (Syracuse, NY: Syracuse University Press, 1988).

34. Mehrzad Boroujerdi, *Iranian Intellectuals and the West* (Syracuse, NY: Syracuse University Press, 1996), 75.

35. Ali Mirsepassi, *Intellectual Discourse and the Politics of Modernization: Negotiating Modernity in Iran* (Cambridge: Cambridge University Press, 2000), 109.

36. Reza Baraheni, cited in Boroujerdi, op. cit., 67.

37. Hamid Dabashi, *Theology of Discontent: The Ideological Foundations of the Islamic Revolution in Iran* (New York and London: New York University Press, 1993), 73–74.

38. Boroujerdi, op. cit., 68.

39. Ibid. Also quoted in Mirsepassi, op. cit., 105.

40. Mirsepassi, op. cit., 107.

41. Boroujerdi, op. cit., 69–70.

42. Cited in Mirsepassi, op. cit., 107.

43. Ibid.

44. Boroujerdi, op. cit., 72.

45. Cited in Dabashi, op. cit., 93.

46. Boroujerdi, op. cit., 88.

47. Dabashi, op. cit., 88.

48. Cited in Dabashi, op. cit., 88.

49. Dabashi, op. cit., 90.

50. Dabashi, op. cit., 91.

51. Cited in Dabashi, op. cit., 91.

52. Cited in Mirsepassi, op. cit., 106.

53. Excerpt from the biographical description of Jalal al-e Ahmad by Simin Daneshvar, his widow, cited in Mirsepassi, op. cit., 101.

54. Cited in Boroujerdi, op. cit., 68.
55. Ibid.
56. See, for example, Mohsen M. Milani, *The Making of Iran's Islamic Revolution: From Monarchy to Islamic Republic* (Boulder, CO, and London: Westview Press, 1988).
57. John Obert Voll, *Islam: Continuity and Change in the Modern World*, 2nd ed. (Syracuse, NY: Syracuse University Press, 1994), 220.
58. Based on the translation in Voll, op. cit., 221. Also, in Muddathir 'Abd al-Rahim, *Bayn al-asala wa'l taba'yya—tajribat al-isti'inar wa annat al-taharrur al-thaqafi fi'l bilad al-asya'iyya wa'l ifriqiyya* (Khartoum: Khartoum University Press, 1978), 14–15.
59. Voll, cited in 'Abd al-Rahim, op. cit., 15–16.
60. Voll, op. cit., 221.
61. Ibid., 222.
62. Ibid., 112.
63. Nikki R. Keddie, *Sayyid Jamal ad-Din "al-Afghani": A Political Biography* (Berkeley and Los Angeles: University of California Press, 1972), 152–167.
64. Ibid. Also, Nikki R. Keddie, *An Islamic Response to Imperialism: Political and Religious Writings of Sayyid Jamal ad-Din "al-Afghani"* (Berkeley and Los Angeles: University of California Press, 1983), 175–180.
65. Keddie, *Sayyid Jamal ad-Din "al-Afghani"*, 153–154.
66. See, for example, 'Abd al-Wahhab 'Azzam, *Muhammad Iqbal—Siratuhu wa falsafatuhu wa sh'ruhu* (First published in Cairo, with an introduction by Taha Husain, this book has been republished in Lahore, Pakistan, by the Iqbal Academy, in 1954, 1960, and 1985); and Annemarie Schimmel, *Gabriel's Wing: A Study into the Religious Ideas of Sir Muhammad Iqbal* (Lahore, Pakistan: Iqbal Academy, 1963).
67. Iqbal, *The Reconstruction of Religious Thought in Islam*, quoted in Voll, op. cit., 234.
68. Voll, op. cit., 234–235.
69. In addition to the above cited works of Voll, Abu Rabi', Dabashi, and Milani, see, for example, Seyyed Vali Reza Nasr, *Mawdu'idi and the Making of Islamic Revivalism* (New York and Oxford: Oxford University Press, 1996); Abdul Rasheed Moten, *Revolution to Revolution: Jama'at-e-Islami in the Politics of Pakistan* (Kuala Lumpur, Malaysia: Islamic Book Trust, 2002); and R. Hrair Dekmejian, *Islam in Revolution: Fundamentalism in the Arab World*, 2nd ed. (Syracuse, NY: Syracuse University Press, 1995).
70. Ernest Gellner, *Postmodernism, Reason, and Religion* (London and New York: Routledge, 1992), 5.
71. Ibid., 18.
72. Cf. George Weigel, *Witness to Hope: The Biography of Pope John Paul II* (New York: HarperCollins/Cliff Street Books, 2001), especially chapters 9, 12, and 16.
73. See, for example, Gilles Kepel, *The Revenge of God: The Resurgence of Islam, Christianity, and Judaism in the Modern World* (Cambridge and Oxford: Polity Press, 1994); and Mark Juergensmeyer, *The New Cold War? Religious Nationalism Confronts the Secular State* (Berkeley and Los Angeles: University of California Press, 1993).
74. Katerina Dalacoura, *Islam, Liberalism, and Human Rights*, rev. ed. (London, New York: I. B. Tauris, 2003), 39.

75. John O'Sullivan, "It must be Islamic democracy or it will die," *National Post*, November 11, 2003.

76. Noah Feldman, *After Jihad: America and the Struggle for Islamic Democracy* (New York: Farrar, Straus and Giroux, 2003), 38ff.

ANNOTATED BIBLIOGRAPHY |

Some Basic and Introductory Readings

Western Perspectives on Islam and the World

Al-Attas, Syed Muhammad Naquib. "The Worldview of Islam: An Outline," in *Islam and the Challenges of Modernity*, ed. Sharifah Shifa al-Attas Kuala Lumpur, Malaysia: International Institute of Islamic Thought and Civilization (ISTAC), 1996. A concise and clear statement of the worldview of Islam by a distinguished Muslim scholar from Malaysia. A fuller critique of secularism from an Islamic perspective is given in his *Islam and Secularism*. Kuala Lumpur, Malaysia: ISTAC, 1993.

Daniel, Norman. *Islam and the West: The Making of an Image*. Edinburgh: Edinburgh University Press, 1960, 1993; revised ed. Oxford: Oneworld, 1993, 1997. This revised and updated version of Daniel's classic study expertly analyzes the formation of Western attitudes towards Islam from the crusades to the present time. It may be supplemented by Edward Said's brilliant *Orientalism: Western Conceptions of the Orient*. London: Penguin Books, 1978 and 1995, together with his *Covering Islam: How Do the Media and the Experts Determine How We See the Rest of the World*. London: Routledge and Kegan Paul, 1981, and Karen Armstrong's thorough and thoughtful work, *Holy War: The Crusades and Their Impact on Today's World*. London: Macmillan, 1992.

Gellner, Ernest. *Postmodernism, Reason and Religion*. London and New York: Routledge, 1992. A short but highly stimulating critique of permissive relativism. Gellner's essay is also an invaluable contribution to understanding Islamic Western relations in the age of postmodernism.

Naugle, David K. *Worldview: The History of a Concept*. Grand Rapids, MI and Cambridge: William B. Eerdmans, 2002. A detailed, systematic, and well-written study of a major concept in modern philosophy and thought. May be usefully read with Hans Reiss's excellent *Kant: Political Writings*. 2nd ed. Cambridge: Cambridge University Press, 1991, and Owen Chadwick. *The Secularization of the European Mind in the Nineteenth Century*. Cambridge: Cambridge University Press, 1975 and 1993.

Introductory Readings on Islam

Ahmad, Akbar. *Islam Today: A Short Introduction to the Muslim World*. London and New York: I. B. Tauris Publishers, 1999. A pithy and highly readable short account of Islam's teachings, history, and contemporary presence in various parts of the world including the West.

Eaton, Gai. *Islam and the Destiny of Man*. Cambridge: Islamic Texts Society, 1994; republished by the Islamic Book Trust, Kuala Lumpur, Malaysia, 2001. Written by a sophisticated and reflective British scholar, one of the best introductions to Islam in the English language, and a moving account of a sensitive soul's search for meaning in human life.

Nasr, Seyyed Hossein. *The Heart of Islam: Enduring Values for Humanity*. New York: HarperSanFrancisco, 2002. The work of a distinguished scholar who is equally at home in Islamic and Western thought, this is a comprehensive and sensitive presentation of the core values of Islam from a global human perspective.

Rahman, Fazlur. *Islam*. 2nd ed. Chicago: University of Chicago Press, 1979. The mature fruit of many years of teaching and research into various aspects of Islamic thought and civilization undertaken in Pakistan and the United States by one of the most independent-minded Muslim scholars of the twentieth century, this book has the hallmarks of the ideal introduction. It is comprehensive, systematic, and clearly written.

Ruthven, Malise. *Islam in the World*. Oxford: Oxford University Press, 1984 and 2000. One of the most highly praised introductions to Islam ever written, both by Muslims and non-Muslims, in modern times. Exceptionally insightful, the book examines many intricate issues thoroughly and with remarkable clarity.

On the Qur'an

Asad, Muhammad. *The Message of the Qur'an*. Gibraltar: Dar al-Andalus, 1980. The best modern rendition and commentary on the Qur'an now available in English. Clearly based on solid understanding of both the classic commentaries as well as modern and contemporary developments across a wide range of subjects, the message of the Qur'an is coherently and lucidly presented here.

Cragg, Kenneth. *The Pen and the Faith: Eight Modern Writers and the Qur'an*. London, Boston, and Sydney: George Allen and Unwin, 1985. Kenneth Cragg is widely recognized as a leading Christian specialist in Islamic studies. In this book, which is based on a series of lectures delivered in India in 1984, he interestingly explores and comments on the approaches to the Qur'an of eight major twentieth-century Muslim figures. Of them, two—Abu-l-Kalam Azad and Mamadou Dia of Senegal—were primarily statesmen and politicians; two—Sayyid Qutb and 'Ali Shari'ati—were two revolutionary ideologues; another pair, Fazlur Rahman of Karachi and Chicago and Hasan Askari of Osmania, India, were scholars; the final two, Muhammad Kamil Husain and Najib Mahfuz, both of Cairo, were outstanding literary figures. Though the selection is admittedly not representative and the survey is necessarily general, the book nevertheless highlights some important issues in Qur'anic interpretation as well as in the life and preoccupations of contemporary Muslim thinkers and societies as seen from a Christian point of view.

Muhammad, Abdel Haleem. *Understanding the Qur'an: Themes and Style*. London and New York: I. B. Tauris, 1999. A good and clear, mainly descriptive, introduction to the teachings of the Qur'an with regard to such themes as water, marriage and divorce, war and peace, tolerance and the face, divine and human. The style of the Qur'an is also discussed, and the book compares the treatment of such topics as Adam and Eve and the story of Joseph in the Bible and the Qur'an.

Rahman, Fazlur. *Major Themes of the Qur'an*. Minneapolis, MN: Bibliotheca Islamica, 1980 and 1989. A short but highly sophisticated introduction to the teachings of the Qur'an with regard to such major themes and topics as God, man as an individual, man in society, nature, evil, and eschatology.

Sells, Michael. *Approaching the Qur'an: The Early Revelations*. Ashland, OR: White Cloud Press, 1999. An exceptionally lucid, sensitive, and altogether masterly introduction to the Qur'an, this is much more than a beautiful and scholarly translation of the early chapters of the holy book. It is a groundbreaking religious appreciation of a text that many non-Muslim readers have hitherto found difficult to approach. It can unreservedly be recommended as one of the best short introductions to this important subject, well suited to beginners and newcomers to the subject.

On Sunna and Hadith

Al-A'zami, Muhammad Mustafa. *Studies in Early Hadith Literature*. Indianapolis, IN: American Trust Publications, 1978. Beginning with a review of literary activities in pre- and early Islamic Arabia, al-A'zami, following in the footsteps of Hamidullah, builds up a formidable monograph on early *hadith* literature, that refutes the theories of Professor Joseph Schacht, a leading Orientalist specializing in Islamic law and jurisprudence, in considerable detail and provides several *hadith* texts from the first century. It is not surprising that A. J. Arberry in his foreword describes A'zami's work as "one of the most exciting and original investigations in this field of modern times."

Al-A'Azami, Muhammad Mustafa. *On Schacht's Origins of Muhammadan Jurisprudence*. London: Wiley, 1985. A full-scale, systematic, and more detailed refutation of Schacht's work.

Hamidullah, Muhammad. *An Introduction to the Conservation of Hadith in the Light of Sahifat of Hammam Ibn Munabbih*. Kuala Lumpur, Malaysia: Islamic Book Trust, 2003. The late Dr. Hamidullah of Hyderabad (1908–2002) discovered, in Berlin, Damascus, and elsewhere, some fourteen different collections of *ahadith* made by the Companions of the Prophet (PBUH) during the early decades of the first century A.H. Hamidullah thereby definitively and conclusively demolished the claim—often presented by certain scholars as though it was fact—that

the major collections of *hadith* had been compiled in the third century A.H. and on the basis only of oral transmission. The *Sahifah of Hammam Ibn Munabbih*, which Hamidullah first published in Hyderabad in 1961, was one such document. Several other scholars, including Fuat Sezgin and Muhammad Mustafa al-A'zami, have since continued and added to Hamidullah's pioneering work.

Kamali, Muhammad Hashim. *Hadith Methodology: Authenticity, Compilation, Classification and Criticism of Hadith*. Petaling Jaya, Malaysia: 'Ilmiah Publishers Sdn. Bhd., 2002. Unlike the primarily historical works of al-A'zami, this book emphasizes the methodologies that *hadith* scholars have employed to verify the reliability of *hadith* reports. It is primarily meant to serve as a textbook for intermediate to advanced level study of *hadith* methodology but will be of benefit for all those interested in '*ulum al-hadith*.

Introductory Readings on Prophet Muhammad (PBUH)

Armstrong, Karen. *Muhammad: A Biography of the Prophet*. London: Victor Gollancz, 1991; Phoenix Press, 2001. An intelligent, well-informed, and highly readable life of the Prophet. The reader's understanding and appreciation of both Islam and the Messenger are enhanced by the thoughtful and interesting comparisons made in the book between Islam and the two faiths most closely related to it—Judaism and Christianity.

Buaben, Jabal Muhammad. *Image of the Prophet Muhammad in the West: A Study of Muir, Margoliouth and Watt*. Leicester, UK: Islamic Foundation, 1996. A revised version of a doctoral dissertation, this is a lively, detailed, and up-to-date critique of the writings of three major Orientalists on Prophet Muhammad. Important methodological issues are discussed, and the writings of several other contemporary scholars are put in context.

Haykal, Muhammad Husain. *The Life of Muhammad*, trans. Isma'il Raji al-Faruqi. Kuala Lumpur, Malaysia: Islamic Book Trust, 2002. Beginning with a detailed analysis of pre-Islamic Arabia, the situational context of the revelation, the book provides a thorough and systematic coverage of the Prophet's life and a comprehensive study of the basics of Islamic civilization as depicted in the Qur'an and projected by Western Orientalists.

Written in circumstances that have been covered in chapter 5 of this book, Haykal's *Hayat Muhammad* attained classic status almost immediately after it was first published in 1935. Faruqi's translation based on the eighth edition of the original Arabic text was first published in the United States in 1976. Not surprisingly, it continues to be very much in demand.

Ibn Ishaq. *Sirat Rasul Allah*, trans. Alfred Guillaume, *The Life of Muhammad*. Oxford: Oxford University Press, 1958. One of the earliest and most widely used classic biographies of Prophet Muhammad. Beginners may not find it as accessible as the works mentioned above, but it is certainly informative and rich in interesting details.

Lings, Martin. *Muhammad: His Life Based on the Earliest Sources*. London: George Allen and Unwin, 1983. Based on profound knowledge of the original Arabic sources from the eighth and ninth centuries and informed, at the same time, by a lifelong appreciation of Islam as a personal and living faith, this book, compared with Karen Armstrong's study, is a somewhat detailed but extremely readable biography of Prophet Muhammad by a cultivated British Muslim scholar. A balanced and impeccably accurate account of the life of the Prophet, it is both informative and a joy to read.

On Islamic History and Civilization

Al-Faruqi, Ismail R., and Lois Lamy' al-Faruqi. *The Cultural Atlas of Islam*. New York and London: Macmillan, 1986. This excellent work combines a systematic, insightful, and comprehensive review of Islamic civilization, its origins, essence, foundations, and manifestations, with a large number of well-designed maps, charts, and excellent photographic illustrations. The fruit of thoughtful and meticulous scholarship on the one hand, and refined artistry and good taste on the other, this work will continue to be a source of information and inspiration for many decades.

Ahmad, Aziz. *A History of Islamic Sicily*. Edinburgh: Edinburgh University Press, 1975. Like Islamic Spain, Islamic Sicily was a lively crossroads of East and West in premodern times. It was the second-most important meeting point between the then advanced and sophisticated Islamic civilization and backward or barbaric Europe. Ahmad's book is a reliable,

if brief, guide to the many encounters and developments that then took place in Sicily with important, though different, consequences for all concerned.

Arnold, T. W. *The Preaching of Islam: A History of the Propagation of the Muslim Faith*. London: Darf Publishers, 1986. One of the earliest and best documented refutations of the old thesis that Islam was spread by the sword, Arnold's monumental work, first published in 1914, continues to be relevant today.

Dodge, Bayard. *Al-Azhar: A Millennium of Muslim Learning*. Washington DC: Middle East Institute, 1961. Al-Azhar mosque-university in Cairo is the oldest surviving institution of higher learning in the world. Dodge's useful study was prepared in celebration of Al-Azhar's first millennium. In 1962, Dodge published another, more general account, *Muslim Education in Medieval Times* (Washington DC: Middle East Institute). The two books, together with Makdisi's work, may be usefully studied together.

Fakhry, Majid. *Ethical Theories in Islam*. Leiden and New York: E. J. Brill, 1991. Beginning with a review of the foundations of Islamic ethical thought in the Qur'an and the *Siima*, Fakhry then proceeds to discuss theological elaborations thereof with special reference to such issues as human capacity and responsibility, voluntarism, determinism, and the classic position of al-Ash'ari. The Greek, mainly Aristotelian and Pythagorean traditions in Islamic ethical thought are then discussed with special reference to al-Kindi, al-Razi, al-Farabi, and Ibn Rushd (Averroës). The discussion culminates in the synthesis of various trends, which was worked out by Al-Ghazali (d. 1111 C.E.). In general, Fakhry's book is a good introduction to the study of ethical thought in Islam. It should perhaps be read with George Hourani's *Reason and Tradition in Islamic Ethics*. New York: Cambridge University Press, 1985. And with Muhammad Abul Quasem's work, *The Ethics of Al-Ghazali: A Composite Ethics in Islam* (New York: Craven Books, Delmar, 1978).

Gibb, Hamilton A. R. *Studies on the Civilization of Islam*. Princeton, NJ: Princeton University Press, 1962 and 1982. Dated in several respects, this collection of essays by one of the most outstanding English Orientalists of the twentieth century is, in certain parts, still worth reading.

- Goodman, Leon Evan. *The Case of the Animals Versus Man Before the King of Jin: A Tenth-Century Ecological Fable of the Pure Brethren of Basra*. Boston: Twayne, 1978. A fascinating philosophical debate between man and animals about the proper relations that should be maintained between the two. It should be of particular interest for those who are interested in ecology and animal rights.
- Hill, Donald. *Islamic Science and Engineering*. Edinburgh: Edinburgh University Press, 1993. Written by a leading expert in the field, this book is an interesting and informative survey of a wide range of scientific and engineering techniques and achievements during the classical age of Islamic civilization.
- Hodgson, Marshall G. S. *The Venture of Islam: Conscience and History in a World Civilization*. Chicago and London: University of Chicago Press, 1974. One of the richest and most sensitive accounts of Islamic civilization as a universal moral order ever written by a Western scholar. It is widely used as a standard text on Islamic history and civilization in universities around the world.
- Khaldun, Ibn. *The Muqaddimah: An Introduction to History*, trans. Franz Rosenthal. 3 vols. New York: Pantheon Books, 1958. Commenting on Ibn Khaldun (1332–1406 C.E.) and the Prolegomena (*Muqaddimah*) that Ibn Khaldun wrote to his *Universal History*, Arnold Toynbee said in the third volume of his monumental work, *A Study of History*, that Ibn Khaldun had conceived and formulated a philosophy of history that is undoubtedly the greatest work of its kind that has yet been created by any mind in any time or place.
- Though it was written several centuries ago, *The Muqaddimah* is still one of the most illuminating and informative guides to classical Islamic civilization that any serious student of the subject can find.
- Lapidus, I. M. *A History of Islamic Societies*. Cambridge: Cambridge University Press, 1988. Perhaps the most comprehensive and up-to-date single-volume history of Islamic societies around the globe.
- Makdisi, George. *The Rise of Humanism in Classical Islam and the Christian West with Special Reference to Scholasticism*. Edinburgh: Edinburgh University Press, 1990. An outstanding, systematic, and multifaceted comparative study of scholasticism and the rise of colleges and other institutions of learning in classical Islam and Christian Europe. The organization of knowledge, the forming of institutions of learning, and the development of techniques of instruction and of certification are among the many subjects that are competently investigated and explained in this work.
- Nasr, Seyyed Hossein. *Islamic Art and Spirituality*. Ipswich, UK: Golgonooza Press, 1987. Nasr explores the relation between Islamic art and Islamic spirituality, with special reference to Islamic calligraphy, architecture, Sufi poetry, and music. A postscript sums up the spiritual message of Islamic art.
- Nasr, Seyyed Hossein, ed. *Islamic Spirituality*. 2 vols. New York: Crossroad Publishing Company, 1987 and 1991. The forty-five essays in this two-volume set offer a good overview of Islamic spirituality: its roots, dimensions, and varieties as well as its institutionalization at the popular level in the form of Sufi Tariqas.
- Nasr, Seyyed Hossein, and Oliver Leaman, eds. *History of Islamic Philosophy*. New York and London: Routledge, 1996. Vol. I: parts I and II. A well-planned, comprehensive, and up-to-date collective work by a number of specialists in various aspects of Islamic philosophy from its earliest stages to the present day. Beginning with a number of thoughtful essays on its religious, intellectual, and cultural context, Part I deals with early Islamic philosophers in the eastern and western lands of Islam, the mystical tradition, and later developments to Mulla Sadra and Shah Waliullah as well as the growth and development of the Jewish philosophical tradition in the Islamic cultural world. Part II covers Islamic philosophy in its various parts: metaphysics, logic, political philosophy, and so forth; the later transmission of Islamic philosophy to medieval Christian and Jewish Europe; and Islamic philosophy in the modern Islamic world with special reference to Persia, India, Pakistan, the Arab world, Egypt, Turkey, and Southeast Asia. A final section deals with the interpretation of Islamic philosophy in the West, and there is a good bibliography at the end. Subsequent volumes will be anxiously awaited by all who are interested in Islamic philosophy and thought.
- Rahman, Fazlur. *Health and Medicine in the Islamic Tradition*. Kuala Lumpur, Malaysia: S. Abdul Majeed & Co., 1993. A clear and concise introduction to the subject and some of the debates that took place between advocates of what may be described as the traditionalist and experimental approaches to medicine in Islamic history.

Rashid, Roshdi, ed. *Encyclopaedia of History of Arabic Science*. 3 vols. London and New York: Routledge, 1996. The three volumes of this work constitute a useful compendium of Muslim Arab contributions in a wide range of scientific studies. It should perhaps be used along with relevant sections of George Sarton's classic *Introduction to the History of Science*. Professor Sarton, who taught at Harvard, was perhaps the greatest historian of science in the twentieth century.

Schimmel, Annemarie. *Deciphering the Signs of God: A Phenomenological Approach to Islam*. Albany: State University of New York Press, 1994. The Qur'an repeatedly calls upon people to think, to reflect, and to "look at the signs of God," some of which are hidden "in horizons and in the themselves." Using a phenomenological approach, Schimmel, one of the most distinguished students of Islamic spirituality in recent times, begins her fascinating and important book by considering the religious and symbolic signs of such natural phenomena as plants, animals, and stones before moving on to space, time, and the sacred lives of individuals and communities. The author concludes her work with a thoughtful chapter titled "How to Approach Islam?"

Watt, W. M. *The Influence of Islam on Medieval Europe*. 2nd ed. Edinburgh: Edinburgh University Press, 1972 and 1987. A concise but clear and fairly comprehensive introduction to an important but sometimes forgotten phase in the history of relations between Islam and the West.

Watt, W. M. *Islam and the Integration of Society*. London: Routledge and Kegan Paul, 1961. Highlights Islam's remarkable success in integrating widely different peoples and cultures and suggests that the achievement of Islam in this respect may serve as a model for the conscious integration of humanity in the future.

Watt, W. M., and Pierre Cachia. *A History of Islamic Spain*. Edinburgh: Edinburgh University Press, 1965 and 1992. In addition to its own intrinsic importance and fascination, Islamic Spain was by far the most important conduit through which Islamic civilization was passed on to medieval Europe. This volume is a good concise introduction to the subject in its two aspects.

Young, M.J.L., J. D. Latham, and R. B. Serjeant, eds. *Religion, Learning and Science in the Abbasid Period*. Cambridge: Cambridge University Press, 1990. This is a useful and wide-ranging survey of Islamic

thought, science, and culture in their various forms and manifestations during the golden age of premodern Islamic civilization.

Human Rights: International and Islamic Perspectives

An-Na'im, Abdullahi Ahmed, and Francis M. Deng, eds. *Human Rights in Africa: Cross Cultural Perspectives*. Washington DC: Brookings Institution, 1990. This volume is a collective effort in which the human rights record of several countries is examined. An-Na'im and Deng are primarily concerned with making a case for cross-fertilization between cultural traditions and international standards. They focus on the tension arising from the fact that people are more likely to be motivated to observe the precepts of their own culture than those that they perceive as imposed from outside on the one hand, and the need to have universal standards of human rights by which all cultural traditions can be judged on the other. The interplay between local and global standards, the editors say in their introduction, is a dynamic of give and take, ideally through persuasion and cooperation rather than through coercion.

Ahmed, Akbar S. *Islam under Siege*. Cambridge: Polity Press; and Malden, MA: Blackwell, 2003. Akbar Ahmed is one of the modern world's most outstanding authorities on Islamic culture and the politics of contemporary Muslim societies, especially in Asia. In typical Akbar Ahmed style—clear, thoughtful, and lit with occasional personal anecdotes—*Islam under Siege* explains the contemporary impasse in Western-Islamic relations since September 11, 2001, not by focusing on the unfolding of the particular events involved, but by considering the historical roots, the global situation, and the sociocultural dimensions of the issues in question. He does this with characteristic rigor and courage.

Bauer, Joanne R., and Daniel A. Bell, eds. *The East Asian Challenge for Human Rights*. Cambridge: Cambridge University Press, 1999. Bauer, Bell, and their associates have, generally speaking, done for east Asia (herein defined as northeast and southeast Asia) what An-Na'im and Deng and their contributors have tried to do with regard to Africa in the above mentioned book. The Asian volume, however, is the product of a multiyear international project that ran from 1994 to 1998. Its

purpose, explicitly stated in the preface, is to improve understanding of human rights in east Asia while reducing confrontation between the West, particularly the United States, and east Asia. Starting off with three papers under the title "Critical Perspectives on the 'Asian Values' Debate" followed by two under the banner "Toward a More Inclusive Human Rights Regime," nine more papers cover "Cultures and Human Rights" and "Economic Development and Human Rights." The similarity in orientation between the two volumes is emphasized by the fact that Jack Donnelly and Abdullahi An-Na'im are among the contributors to both.

Bobbio, Norberto. *The Age of Rights*, trans. Allen Cameron. Oxford: Polity Press and Blackwell Publishers, 1996. Building on the ideas of Kant, Locke, and Paine, among others, Italy's leading political theorist analyzes the evolution of human rights and democracy in the context of historical developments since the French Revolution, showing that this was crucially important in shaping subsequent thinking about human rights until modern times. Bobbio's brilliant and sophisticated arguments about the importance, development, and implementation of human rights are couched in plain and clear language, the result being a remarkably lucid book that is at the same time informative and illuminating.

Dalacoura, Katerina. *Islam, Liberalism and Human Rights: Implications for International Relations*. London: I. B. Tauris, 1998 and 2003. On the basis of detailed studies in the political processes of twentieth-century Egypt and Tunisia, Dalacoura convincingly argues that where human rights are concerned the dividing line should not be drawn between secular and nonsecular systems or worldviews, but between those which "respect the inherent worth of the individual and his or her inalienable rights, even if that is encompassed in a metaphysical or religious framework, and worldviews that do not, be they religious or secular." Aspects of the wider Arab experience in human rights are covered in Tabet Koraytem, "Arab Islamic Developments on Human Rights," *Arab Law Quarterly* 16:3 (2001), 255-262; Ibrahim Awad, "The External Relations of the Arab Human Rights Movement," *Arab Studies Quarterly* 19:1 (Winter 1997), 59-75; and Mustapha K. Al-Sayyid, "Theoretical Issues in the Arab Human Rights Movements," *Arab Studies Quarterly* 19:1 (Winter 1997), 23-29.

Donnelly, Jack. *Universal Human Rights in Theory & Practice*. Ithaca, NY, and London: Cornell University Press, 1989. One of the most vigorously argued defenses of the contentious view that the idea and practice of human rights, defined as equal and inalienable rights held by individuals against the state and society, emerged only in the modern West and that it is only in secular Western, or Western-style, states and societies that human rights can possibly exist or be upheld. Accordingly, Donnelly states that "Most non-Western cultural and political traditions . . . lacked not only the practice of human rights but the very concept. . . . [H]uman rights are quite foreign" to them (p. 50).

Ghannouchi, Rachid. *Al Hurriyat al-'Ammah fi'l Dawl al-Islamiyya* [Civil Rights in the Islamic State]. Beirut, Lebanon: Markaz Dirasat al-Wahda al-'Arabiyya, 1993. Rachid Ghannouchi, the leader-in-exile of the Tunisian Islamist movement *al-Nahda* is probably the most outstanding and consistent exponent of democratic principles and human rights among contemporary Islamic activists. *Al-Hurriyat al-'Ammah* is one of his most widely read publications. Non-Arabic speaking readers can best approach Ghannouchi and his thought by reading Azzam S. Tamimi's *Rachid Ghannouchi: A Democrat within Islamism*. Oxford: Oxford University Press, 2001, and Mohammed Eliachmi Hamdi's *The Politicisation of Islam: Essays on Democratic Governance*. Oxford and Boulder, CO: Westview Press, 1998.

Mandaville, Peter. *Transnational Muslim Politics: Reimagining the Umma*. London and New York: Routledge, 2004. An original and sophisticated book that critically analyzes current approaches to the study of international relations and refreshingly examines the politics of Muslim diasporas and the impact on them, and on the Muslim world in general, of contemporary information and communication technologies. Empirical research and analytical rigor are brilliantly combined to produce a highly informative and thought-provoking book.

Mayer, Ann Elizabeth. *Islamic Human Rights*. 3rd ed. Boulder, CO: Westview, 1999. The most detailed and systematic critique of writings and declarations on human rights that have been issued by various Muslim individuals and organizations since the promulgation of the Universal Declaration. It can usefully be complemented by the thoughtful papers of John Strawson, "A Western Question to the Middle East: Is There a Human Rights Discourse in Islam?" *Arab Studies Quarterly* 19:1

(Winter 1997), 31–58; Heiner Bielefeldt. "Muslim Voices in the Human Rights Debate," *Human Rights Quarterly* 17 (1995), 586–617; and Ridwan Al-Sayyid. "Contemporary Muslim Thought and Human Rights," *Islamochristiana* 21 (1995), 27–41.

Moussalli, Ahmad S. *The Islamic Quest for Democracy, Pluralism, and Human Rights*. Tallahassee: University of Florida Press, 2001. The author of this book persuasively argues that the notions of political contract and consensus, tolerance of differences, pluralism, and opposition; and human rights and the rights of minorities are germane to the basic doctrine of government and politics that were developed during the history of classical and medieval Islam and that they can be elaborated on to meet the needs for democracy, pluralism, and human rights of the Muslim world today. Nabil Matar's article "John Locke and the 'Turbanned Nations,'" *Journal of Islamic Studies* 2:1 (1991), 67–77, provides an interesting supplement to Moussali's argument about Islamic pluralism from a seventeenth-century Western perspective.

Mukasa, Kasule Umar. *Islam and Human Rights: A Critique of Contemporary Muslim Approaches*. Kuala Lumpur, Malaysia: ISTAC, 2005. Like Adamantia Pollis and Peter Schwab, but on the basis of a much more rigorously philosophically argued point of view, Mukasa maintains that since the worldview of Islam and that of the modern West on which the international system of human rights is primarily based are decidedly different and, he believes, irreconcilable, the gap between Islam and human rights—by contrast with what many contemporary Muslims have said—is not only very wide but is, logically, unbridgeable. Kasule's book is unique among contemporary Muslim writings on human rights for its total and uncompromising rejection, on philosophical grounds, of the modern doctrine of human rights. In this regard, Kasule's position is the antithesis of Jack Donnelly's in *Universal Human Rights in Theory & Practice*.

Muzaffar, Chandra. *Rights, Religion and Reform*. London: Routledge, Curzon, 2002. Appropriately subtitled *Enhancing Human Dignity through Spiritual and Moral Transformation*, this book, by one of Asia's best internationally known spokesmen for social justice, human rights, and the need for spiritual renewal and ethical commitment, is essentially a call for a just global order in which human rights are nourished and sustained by Asian and Islamic spirituality in harmony and cooperation

with other human and religious traditions. It is vintage Chandra Muzaffar: brilliant, incisive, and eloquently written.

Pollis, Adamantia, and Peter Schwab. *Human Rights: Cultural and Ideological Perspectives*. New York, London, Sydney, and Toronto: Praeger Special Studies, 1979. Published several years before Mukasa's and Muzaffar's books, this collection of papers takes a different stance on the relations between local and international systems of human rights. The first paper, by the two editors of the volume, sets the tone for the rest. It is entitled "Human Rights: A Western Construct with Limited Applicability."

Risse, Thomas, Stephen C. Ropp, and Kathryn Sikkink, eds. *The Power of Human Rights: International Norms and Domestic Change*. Cambridge: Cambridge University Press, 1999. The authors of this book set out to discover the conditions under which international human rights are internalized in domestic practice and inquire as to what accounts for the variation in the degree of compliance between countries. The team investigated some of the well-publicized success stories, such as South Africa, Poland, and the former Czechoslovakia, as well as such apparently intractable cases of human rights violations as Guatemala, Tunisia, and Kenya. A forty-four-page concluding chapter culminates in ten lessons for human rights practitioners that begin with a discussion of transnational human rights pressures and policies and ends with some reflections on the uses and limitations of "constructive engagement" toward norm-violating states.

This is an altogether useful and stimulating book that is well worth reading, even though it may not have achieved total success in sorting out the many intricate problems that it had originally set out to resolve. In that context, several themes, including Western cultural origins of the international system, Christian and Muslim perspectives on the subject, and the experiences of various African communities, are examined.

Runzo, Joseph, Nancy M. Martin, and Arvind Sharma, eds. *Human Rights and Responsibilities in the World Religions*. Oxford: Oneworld Publishers, 2003. At the core of this book is a proposed substitute to the Universal Declaration of Human Rights entitled "A Universal Declaration of Human Rights by the World's Religions" together with several essays that have been contributed as commentaries on the proposed declara-

tion by representatives and spokesmen of Confucianism, Hinduism, Islam, Christianity, and Judaism, among others. The declaration in question was adopted in principle in 1998 by the Project on Religion and Human Rights, an interfaith organization that was first launched in New York in 1993 on the fiftieth anniversary of the Universal Declaration. The proposed new Declaration was analyzed, published in amended form, and improved upon in a series of conferences that were convened at various times since 1998 in California, Durban, Barcelona, Paris (at the United Nations Educational Scientific and Cultural Organization headquarters), and, finally, at Genting Parmai Resort, Malaysia, in November 2002 before it was published in book form in 2003.

The creation of the Project on Religion and Human Rights and the subsequent formulation and publication of the proposed new Universal Declaration express a deeply felt sense of collective dissatisfaction among faith communities around the world with the existing and various declarations, covenants, and conventions that have since ensued. Representatives and spokesmen of faith communities have for several decades now expressed their dissatisfaction with the fundamentally secular and individualistically oriented human rights concepts enshrined in the Universal Declaration and its complementary covenants, repeatedly suggesting that these may be further refined and their provisions balanced by infusing such religiously based notions as spirituality and responsibility.

In addition to this general and all-encompassing point, leaders and spokesmen of faith communities have over the years expressed a number of specific concerns and reservations about the existing system of international human rights. One of these concerns relates to the fact that although religions had, historically, pioneered some of the basic building blocks of human rights, such as justice and human dignity, religions have, for various reasons, largely been sidetracked in the Universal Declaration and any covenants and conventions on human rights that have since emerged. Even reference to God—which was proposed during the debate on Article I of the declaration—was explicitly and consciously excluded from the declaration as well as all subsequent covenants.

A second major concern of the international faith communities relates to the fact that religions, far from being regarded as bona fide sources of human rights, have evidently continued to be regarded by many as ob-

stacles that hinder the protection and promotion of human rights. As such, it is often suggested that religions should be confined to the private sphere of life; at best they should be allowed a supportive role vis-à-vis the declaration and other international human rights documents.

It should be interesting to see how the major debate that has thus been launched will proceed. Is it likely that a new Universal Declaration will emerge in which responsibilities will be enshrined alongside rights and communal as well as individual rights will be protected and promoted? Is the integration or amalgamation of religion and religious rights in the contemporary field of human rights for which many have been working and yearning about to be accomplished? Or is it more likely that the two will continue to exist as two overlapping but essentially competing rivals?

Saikal, Amin. *Islam and the West: Conflict or Cooperation?* London and New York: Palgrave Macmillan, 2003. This is a pithy and thoughtful short study that, dismissing such oversimplifications as the "clash of civilizations" thesis, identifies and soberly discusses the specific issues that have in more recent times disrupted a historical pattern of Western-Islamic relations, which were historically marked by cooperation as well as conflict. Saikal concludes his useful study with a number of policy recommendations for overcoming the challenges of terrorism, religious extremism, and hegemonic policies.

Waldron, Jeremy, ed. *Theories of Rights*. Oxford: Oxford University Press, 1984, 1995. This book consists of nine essays written by eminent scholars and specialists in law, jurisprudence, and philosophy on such pivotal issues in the context of the human rights debate as natural rights, justice and equity, and utility and rights. Questions as to whether there are any natural rights and whether there can be a right-based moral theory are expertly and incisively investigated. The editor has provided a useful introduction in which different aspects of the debate are highlighted and the individual essays are put in context. Set at a higher level of theoretical abstraction than Bobbio's book, *The Age of Rights*, this is nevertheless a well-structured, lucid, and stimulating collection of essays.

Weeramantry, C. G. *Islamic Jurisprudence: An International Perspective*. London: Macmillan, 1988; Kuala-Lumpur, Malaysia: Other Press, 2001. A clear and pithy work by a distinguished Sri Lankan judge who

was also vice president of the International Court of Justice. It brings out the role and significance of Islamic law and jurisprudence in relation to other, especially Western, systems. With reference to Jack Donnelly's above-mentioned remarks, Weeramantry points out that other Western writers have cited the untenability of such an approach. In particular, he approvingly quotes human rights analyst A. D. Renteln's comment: "These are odd criticisms since human rights are often perceived as deriving moral authority from religious sources and have been denied to various groups in the history of the Western world as well. In short, Donnelly's objections appear to stem from his peculiarly narrow concept of human rights, one which reflects his cultural biases" (pp. 119–120). Noting that the Islamic concept of human dignity—and the basic rights and freedoms that emanate from it—apply to all humans irrespective of whether they are Muslims or not, Weeramantry also points out that the Islamic stress on relationship with the divine and on the concept of duty could well lead to a more dedicated and purposive commitment to human rights than might be possible in a system that depends on concessions grudgingly granted under compulsive pressures.

Witte, John Jr., and John D. van der Vyver, eds. *Religious Human Rights in Global Perspectives: Religious Perspectives*. The Hague, Boston, London: Martinus Nijhoff Publishers, 1996. This book—together with its companion volume, *Religious Human Rights in Global Perspectives: Legal Perspectives*, the two of which add up to well over 1200 large-size pages—has been written with the conviction that "religion and religious rights must be integrated into the contemporary field of human rights" (p. xxxiv). The editor states that the two volumes are offered in the spirit of reconciliation and integration that, he adds, the field of human rights so desperately needs.

There are about twenty papers in each of the two volumes. The chapters in the first volume focus on different aspects of human religious rights in the Jewish, Christian, and Islamic traditions, with some chapters dedicated to the rights of women and children. In the second volume, such topics as religious rights under the United Nations, methodological foundations of studying religious human rights, and the role of the media in the cultivation and protection of religious human rights are covered, while most of the remaining chapters are dedicated to various aspects and problems of religious rights in a number of individual countries and regions around the globe.

Informative and stimulating though these two volumes undoubtedly are, the chief editor of the first appropriately concludes his introduction by citing the ancient prophetic reminder: "of the writing of books, there is no end" (p. xxxiv).

INDEX

- 'Abbas, Ferhat, 124–25
- 'Abbasid caliphate, xx
- 'Abbasids, 56, 79
- 'Abboud, Ibrahim, 106
- 'Abboud, Mehaira bint, 72
- 'Abdu, Muhammad, 92, 98, 126, 184
- Abdulhamid (sultan of Turkey), 191, 198
- Abortion, 27
- Abou El Fadl, Khaled, 96
- Abraham, xvi, xxii, 23
- Abu Bakr, 'A'isha bint, 68
- Abu Bakr al-Siddiq. *See* Siddiq, Abu Bakr al-
- Abu Ghraib prison, xxxiv
- Aceh, Indonesia, 64
- Adam, 20–21, 23
- 'Adat, 87–88
- 'Adawiyya, Rabi'a al-, 69
- Adham, Isma'il, 118
- Administration. *See* Governance
- Adylov, Ismail, 183
- 'Affan, 'Uthman ibn, 41, 79, 184
- Afghani, Jamal al-Din al-, 105, 126, 183–84
- Afghanistan, xxxiv, 64, 94, 96
- Africa, xxiv–xxvi. *See also individual countries*; North Africa
- African Americans, xxvi–xxvii
- African Personality, xxiv
- Ah'ari, Abu Musa al-, 154
- Ahmad, Jalal Al-e, 120–23
- Ahmadiyya movement, 9
- Ahmad Khan. *See* Bahadur, Sayyid Ahmad Khan
- Akhirah*, 16–17
- Al-Ahkam al-Sultaniyyah* (al-Mawardi), 79
- 'Alawis, 62
- Al-e Ahmad. *See* Ahmad, Jalal Al-e
- Algeria, 64, 85, 98, 108, 124–25
- Al-Hidaya*, 86
- 'Ali, Hussain Ibn, 79
- Ali, Noble Drew, xxvi
- 'Ali Ibn Abi Talib. *See* Talib, 'Ali Ibn Abi
- Aliran Kesedaran Negara (ALIRAN), 191
- Allah. *See* God (Allah)

- Al-Muwafaqat fi Usul al-Ahkam (Al-Shatibi), 193–94
 Almuwahhidun, 55–56
 Al-Takfir w'al Hijra, 108
 Al-'Urwa al-Wuthqa (journal), 126, 184
 Alusi, al- (commentator), 24
 Alwaaqi 'Al-Misriyya (newspaper), 196
 Amazaiqs, 63–64
 American Muslim Mission, xxvii
 Amin, Qasim, 92
 Amnesty International, 113
 Amran, Aaron Ibn, 57
 Amrillah, al-Hakim bi-, 58
 Andalus, al-, 55–56
 Anglo-Muhammadan law, 86–87
 Animals, 48–49, 157–58
 Apartheid, xxv
 Apostasy, 10
 'Aqqad, 'Abbas Mahmud al-, 119
 Aquinas, Thomas, 5
 Aquam al-Masalik fi Ma'rifat Ahwal al-Mamalik (Tunisi), 105
 Arab Charter on Human Rights, 113, 174–80
 Arab League, 113–14, 174–80
 Asad, Muhammad, 12, 17, 30–31
 Ash'ari, Abu Musa al-, 189
 Ashtar, Malik al-, 155
 Assimilation, 124–25
 Ataturk, Mustafa Kemal, 90, 127, 128
 Atheism, 118
 Attas, al- (professor), 16
 Augustine, St., 5
 Authoritarian governments, 107–10, 128, 129–30
 Avicenna (Ibn Sina), 186–87
 Aws, xix
 Ayyubids, 58–59
 'Aziz, 'Umar Ibn 'Abd al-, 98, 184–85
 Aziz (Fatimid caliph), 58
 'Aziz, 27
 Ba'ath party, 62, 63, 108
 Badis, 'Abd al-Hamid ibn, 125
 Bahadur, Sayyid Ahmad Khan, 125–26
 Baha'is, 61
 Bahrain, 96
 Bakr, 'A'isha bint Abi (wife of Muhammad), 32, 68
 Balfour Declaration (1917), xxxiv
 Bangladesh, 115–16
 Baqillani, al- (Ash'ari theologian), 56
 Barudi, Jamil al-, xxxii, 9
 Bashir, 'Umar Hassan al-, 106
 Battle of the camel, 68
 Bazargan, Mahdi, 123
 Bedouin tribes, 37, 63
 Bengal, xxiv
 Berbers, 63–64, 88–89
 Bey, Ahmad, 198
 Bhutto, Benazir Ali, 69
 Bible, xxvii
 Bishri, Tariq al-, 102
 Black Muslims, xxvi
 Blyden, Edward Wilmot, xxiv–xxv
 Body, 33–35
 Bosnia, 62, 188
 Bourguiba, Al-Habib, 108
 Britain, 60, 85–87, 94, 125–26, 128
 Broken families, 25–26
 Bruce, John Edward, xxvi
 Bukhari, al-, 67
 Business practices, 35–36, 38, 144–46
 Buyids, 57, 79
 Byzantium, xix–xx, 52
 Cairo Declaration on Human Rights in Islam, 114, 158–65

- Caliph, definition of, 78
 Camus, Albert, 120
 Canada, xxvii
 Catholic Church, 7, 52
 Charity, 36–37
 Charter of Madina, xix, xxiii, 47, 150–51
 Charter of Najran, 152
 Children: duties to parents of, 28–29; family provisions for, 25–28; Qur'an on, 142–43; rights of, 24–29; social provisions for, 28
 China, 72
 Christianity: black criticisms of, xxiv–xxvi; Charter of Najran on, 152; and Crusades, 59; French Revolution and, 7; Islam in relation to, xvi, xxiii–xxiv, 53–54, 56–57, 62; and Israel, 61; Jews mistreated by, 56; Russian colonialism and, 83
 Churchill, Winston, 103
 Ciller, Tansu, 69
 Circumcision, female, 74
 Civil Code of Egypt (1949), 101
 Civil Code of Iraq (1951), 101
 Coitus interruptus, 27
 Cold war, human rights and, 107
 Colonialism: effect on human rights debates of, xxxiii–xxxiv, 6–7; extent of, 78, 83; governance after, 124–26; revival and reconstruction attempts after, 90–102; Russian and Soviet, 83–84; sociopolitical disintegration under, 83–89; Western European, 84–89
 Commissioner for Human Rights, United Nations, 131
 Communism, 118
 Community, 40–42
 Comte, Auguste, 117
 Condillac, Étienne Bonnot de, 195
 Constitutional governments, 105–7
 Copts, 61–62
 Creation: diversity in, 45–46; God and, 11, 12, 17–18; of humans, 20–21; purpose of, 15. See also Nature
 Crusades, 59
 Custom, 87, 94, 101
 Dabashi, Hamid, 121
 Dalacoura, Katerina, 10, 103, 129
 Dante Alighieri, 49
 Dar al-Islam, xix
 Dar al-'Usur, 118
 Darwin, Charles, 118
 Dashti, 'Ali, 120
 Da'ua, xxi
 Declaration of the Rights of Man and the Citizen (1789), 7
 De Klerk, P.J.S., xxv
 Democracy: definition of, 104; global trend toward, 109; human rights and, 104; in non-Arab Muslim countries, 115–16; popular attitude toward, 115–16; questions concerning, 104; secularism and, 116–24; value of, 129–30
 Dhimmi, 53–55, 57–60
 Dignity, 15–16, 24, 137–39
 Dīn, xvi
 Dīn al-fitrāh, xxii
 Disrespect, 39
 Divorce, 33, 93, 141
 Donations, 36–37
 Donnelly, Jack, 10
 Dowry, 31, 67–68
 Druzes, 62
 Du'nya, 16–17
 Durkheim, Émile, 117
 Dutch Reformed Church, xxiv–xxv
 Duty: free speech as, 43; rights versus, 10–13. See also Responsibility

- East India Company, 85–86, 125–26
 Egypt, xix, xxiv, 52, 57–59, 61–62, 91–92, 101, 106, 108–9, 117–18, 196
 Enlightenment, 7–8
 Entitlements, 11. *See also* Rights
 Erdugan, Recep Tayyip, 115
 Esman, Milton, 65
 Esposito, John L., 103
 Ethnic cleansing, 62
 Ethnicity, and conflict in nation-states, 63–66
 Ethnic mixing, xxvii–xxviii, 63
 Europe, religion and secularism in, 128
 Eve, 20–21
 Existentialism, 120
 Fahmi, Mansur, 120
 Family, 29–33; marital relations, 30–33, 140–41; modernization and, 92–93; role of, xvii. *See also* Children; Marriage; Parents
 Fanon, Franz, 125
 Farrakhan, Louis, xxvii
 Faruqi, Ismail Raji al-, 119
Fatawa alangiri, 86
Fatwa, 95–96, 193
 Feldman, Noah, 129
 Female genital mutilation (FGM), 74–75
Fiqh: decline of, 82; eclecticism and, 97–98; explanation of, xvii; extent of, xviii; modern development of, 97–98
 Fodio, Shehu Usman dan, 71–72
 France, 60, 85, 88–89, 124–25, 195–96
 Freedom. *See* Liberty
 Freedom of religion, 8–10, 22. *See also* Respect: for non-Muslims
 Freedom of speech, 43
 French Revolution, 7, 117
 Freud, Sigmund, 117
 Front de Libération Nationale, 108
 Gama, Vasco de, 83
 Gandhi, Mohandas, 123
 Gellner, Ernest, 127
 Germany, 128
 Ghaffar (landowner), 74
Gharbzadegi (Ahmad), 120–21
Ghayb, 16
 Ghazala (women fighter), 69
 Ghazali, Abu Hamid al-, 25, 27–28, 34–35, 69–70, 80–81
 Ghazali, Mohammad al-, 95
 Ghazali, Muhammad al-, 74, 95–96
 God (Allah): Allah as proper name for, 17; as creator of all things, 11, 12, 17–18; essence of, 17; human relationship to, 19; oneness of, 19–20, 44–45; *shahada* and, xxii, 37
 Goitein, S. D., 53
 Goodwin, Jan, xxviii
 Governance, 78–81; Abu Bakr's acceptance speech, 153–54; authoritarian governments, 107–10, 128, 129–30; Charter of Madina, 150–51; constitutional governments, 105–7; factors obstructing, 106; liberalized autocracy, 110–13, 128; military governments, 107; parliamentary governments, 106; Talib's letter on, 155–57. *See also* Democracy; Politics
 Grand Mosque, Makkah, 95
 Grotius, 5
 Haithamah, al-Shaffa' Um Syalayman ibn Abi, 67–68
 Hajj, 37
 Hakim, al-. *See* Amrillah, al-Hakim bi-
 Hanafi school, 97–98
 Hanbali school, 93, 96, 98
 Hanifa, Abu, 38, 68, 86
Haq, 11–12
 Hasan (grandchild of Muhammad), 32
Hayat Muhammad (Haykal), 119
 Haykal, Muhammad Husain, 119
 Hazm, Ibn, 68
 Headscarves. *See* Hijab
 Heidegger, Martin, 120
 Hidayat, Sadiq, 120
Hijab, 70, 72–73
Hisba, 35
 Hobbes, Thomas, 7–8, 80
 Holland. *See* Netherlands
 Honor killings, 74
 Hreid, Jamila Bu-, 72
Hujat al-Islam. *See* Ghazali, Abu Hamid al-
 Human rights: Arab League and, 113–14; cold war and, 107; democracy and, 104; disillusionment concerning, 132; duty and, 10–13; international concerns over, xxix–xxxii; Islamic concerns over, xxxii–xxxvii; non-Western countries and, 10; religious concerns over, xxx–xxxii, xxxiii, 132–33; *shari'a* and, 114; Sudan and, 111–12. *See also* Islamic human rights tradition; Rights
 Human Rights Watch, 113, 197
 Humans: character of, 23; creation of, 20–21; equality of men and women, 30–31; freedom of choice given to, 22; Qur'an and, 20–24; relationship to God of, 19; stewardship of nature, 21, 33, 49–50
 Hurayra, Abu, 157–58
 Hurgonje, C. Snouck, 87
 Husain (grandchild of Muhammad), 32
 Husayn, Sukayna bint al-, 69
 Husri, Sati' al-, 107–8
 Hussein, Taha, 91–92, 117, 120
Ibadi, xvii
 Ibadi, Shirin, xxxvi–xxxvii, 185–86
Iblis, 20–22
 Ibn Sina (Avicenna), 186–87
Ihya' 'Ulum al-Din (Ghazali), 25, 69–70
Ijtihad, xvii, 82, 96, 99, 127, 193
 Ilbiri, Abu Ishaq al-, 55
 Imam Shamil, 187–88
 India, 86–87, 125–26
 Indonesia, 64, 87–88, 115–16
 Infanticide, 26–27
Infatih, 109
 Inter marriage, xxvii–xxviii, 63
 International Bill of Human Rights, xxix–xxxvii, 4, 15–16, 132
 International Covenant on Civil and Political Rights (1966), xxix
 International Covenant on Economic, Social, and Cultural Rights (1966), xxix
 International Monetary Fund, 110
 International Movement for a Just World (JUST), 192
 Iqbal, Muhammad, 98, 126–27
 Iran, 64, 65–66, 120–24
 Iraq, xix, xxiv, xxxiv, 52, 62, 65, 101, 106, 108
Irshad al-Ikhwan Ila Ahkam Khuruj al-Niswan (Fodio), 71
 Islam: and apostasy, 10; attraction of, xxiii, xxiv, xxviii–xxix; benefits of, xxv; call to, xxi; decline of, 78–83; flourishing of, 6; foundations of,

- xix; and human rights, xxxii-xxxvii; instruction in, xxii-xxiii; integration of societies in, xix, xx-xxi, xxiii-xxvii, 44, 47, 52-66; joining, xxii; meaning of term, xv-xvi; modernization of, 96-102; pillars of, 37; as religion, xvi; revival and reconstruction attempts, 90-102, 119-24; secularism versus, 116-24; spiritual aspect of, xxii-xxiii; spread of, xviii-xxix; tradition-promoting post-colonial governments, 93-96; unity and variety in, xxi, 44-48; Westernizing opposition to, 90-93; worldview of, 16-20. *See also* Islamic human rights tradition
- Islamic human rights tradition:
classical, 4-7; cosmic character of, 11-13; dignity as basis of, 24; theocentric character of, 7-11
- Israel, xxxiv, 61, 65-66
- Israeli-Arab conflict, 106-7, 109
- Istanbul, xx
- Italy, 128
- Ivan the Terrible, 83
- Izetbegovic, 'Alya 'Ali, 188
- Jacobins, 117
- Jacobites, 56
- Jahan, Shah, 69
- Jahiz, al-, 48
- Jakarta, Indonesia, 64
- Jama'a, Ibn, 81
- Jama'at-i Islami*, 127
- Jamal al-Din al-Afghani. *See* Afghani, Jamal al-Din al-
- Java, Indonesia, 87-88
- Jawziyya, Ibn Qayyim al-, 198
- Jesus, xxii, 23
- Jews: Charter of Madina on, 151; Christians and, 56; and
- Communism, 118; Muslims and, xxiv, 52, 55-59. *See also* Israel; Judaism
- Jihad, definition of, 23
- Jinnah, Muhammad Ali, 9
- Jizya, 54
- John Paul II, 128
- Judaism, Islam in relation to, xvi, 53-54. *See also* Jews
- Judiciary, 43
- Justice, 42-43, 143-44, 154-57
- Ka'ab, Nusaibah bint, 68
- K. fir*, 20
- Kamali, Muhammad Hashim, 24
- Kant, Immanuel, 7, 8, 16
- Karaites, 56
- Kasrawi, Ahmad, 120
- Khalidun, 'Abd al-Rahman ibn, 193
- Khalidun, Ibn, 77
- Khalid, Khalid Muhammad, 120
- Khalifa*, 78
- Khan, Hulaku, xx
- Khatib, Lisan al-Din ibn al-, 193
- Khattab, 'Umar Ibn al-, 28, 41, 43, 48, 67-68, 79, 154-55, 189-90
- Khazraj, xix
- Khomeini, Ruhollah, 121, 122
- Khubat, Sumayyah bint, 68
- Khuwaylid, Khadijah bint (wife of Muhammad), 34, 68-69, 190-91
- Killing, 27
- Kinaniyya, Rabha al-, 72
- Knowledge, value for Islam of, 34-35
- Kufr*, 17, 22
- Kurds, 63, 65-66
- Kuwait, 94, 96
- Lahd, Antoine, 61
- Law, xviii, 86-89, 91-102. *See also* *Shari'a*
- Lawal, Amina, 71

- Law of Family Rights (1917), 98
- Law of Personal Status (Syria, 1953), 99
- Law of Personal Status (Tunisia, 1957), 99
- Lebanon, 106, 109
- Lenin, V. I., 84
- Letter Concerning Toleration* (Locke), 5
- Lewis, Bernard, 55
- Liberalized autocracy, 110-13, 128
- Liberty: of choice, 22; French Revolution definition of, 8; nationalism versus, 108; virtue prized over, 32
- Libya, 108, 111
- Life, sanctity of, 27
- Locke, John, 5, 8, 44-48
- Ma'arri, Abu'l 'Ala' al-, 49
- Macca, xix
- Madhhabs*, xvii, xxxiii
- Madina, xix
- Mahal, Mumtaz, 69
- Mahmud, Mustafa, 120
- Maimonides, 56, 58
- Majallat-i Ahkami Adliye* ("The Book of Rules of Justice"), 97
- Makkah, 95
- Malaysia, 64, 86, 115-16
- Malcolm X, xxvi-xxvii
- Malik, 38
- Malik, Syllayman ibn 'Abd al-, 185
- Maliki school, 98
- Mallat, Chibli, 102
- Mamluks, 81
- Manicheans, 57
- Mao Tse-Tung, 72
- Maronite Christians, 61
- Marriage: factors in successful, 25, 67; husband-wife relations in, 30-33, 140-41; intermarriage, xvii-xviii;
- lack of consent for, 74; modernization and, 92-93; modern legal changes pertaining to, 98-99
- Martel, Charles, xx
- Martyrdom, 68
- Marx, Karl, 117
- Marxism-Leninism, 117
- Marzuki, Moncef, 191
- Mas'ari, Muhammad al-, 95
- Maslaha*, 194
- Mawardi, al-, 79
- Maymun, Musa Ibn (Maimonides), 56, 58
- Mazhar, Isma'il, 118, 120
- Mehmet III, 59-60
- Messengers of God, 23
- Mez, Adam, 52, 57
- Military governments, 107
- Minorities, 52-66
- Modernization, 92-93, 96-102, 121-23
- Mohammadan Anglo-Oriental College, 126
- Mongols, xx, 59, 81
- Monotheism, 19-20
- Montesquieu, 5, 8, 195
- Moorish Science Temple of America, xxvi
- Morality, 22-23
- Morocco, 64, 88-89
- Moses, xxii, 23
- Motahari, Morteza, 123
- Muhammad, Elijah, xxvi-xxvii
- Muhammad, Warith (Wallace) Deen, xxvii
- Muhammad (prophet): and animals, 48, 157-58; on bodily pleasures, 34; and Charter of Madina, 150-51; and Charter of Najran, 152; communal concern of, 41; on criticism, 43; death of, xix; on divorce, 33; employment of, 34; on

- equality of men and women, 31;
family of, 32, 34, 47, 68–69, 190;
farewell address of, 152–53;
founding of Islam by, xix; on
freedom of religion, 22; and
human rights, 4; life of, 192–93; as
messenger, 23; on obedience, 42;
on parents, 29; on promotion of
society, 39–40; *shahada* and, xxii,
37; significance of, xvi, xxii; and
spoils of war, 185; and tolerance,
xxiii, 47; on virtue, 32; and
women, 51, 67, 153; on work, 34
- Muhammad the Conqueror (Mehmet
al-Fatih), xx
- Muhtasib*, 35
- Mu'izz, al-, 58
- Murata, Sachiko, 51
- Musa, Salama, 117–18
- Muslim Brotherhood, 127
- Muslim University, Aligarh, 126
- Mustafa Kemal. See Atatürk, Mustafa
Kemal
- Mustakfi, Wallada bint al-, 69
- Muttalib, Safiyya bint 'Abd al-, 68
- Muttaqin*, 16
- Muzaffar, Chandra, xxx–xxxi, 191–92
- Nabi, Malik Bin, 83
- Naghrla, Ismail Ibn al-, 55
- Nasir, Jamal 'Abd al-, 108–9, 119
- Nationalism, 60–66, 108, 120
- Nation of Islam, xxvi–xxvii
- Nation-states, 60–66
- Nature: animals in, 48–49, 157–58;
human stewardship of, 21, 33,
49–50; Islam on obligations to, 12;
perfection of, 18; purpose of,
18–19; signs of God in, 18–19, 49.
See also Creation
- Nazism, 62–63
- Neo-Nazism, 62
- Nestorians, 56
- Netherlands, 87–88, 128
- New Yorker* (magazine), 65
- Nigeria, 86, 94, 96
- Non-Muslims: interactions with,
52–66; respect for, xxiii–xxiv, 5, 8,
44, 46–47, 52–53, 59–60; rise of
nation-states and, 60–66
- North Africa, 63
- Numairy, Ja'far, 106, 108
- Nusairis, 62
- Obedience, 42
- Obligations, 11. See also Duty
- Ombudsman, 43
- Onama, Felix K., 65
- Oriental Exclusion Act, xxvii
- Original sin, 23
- Origin of Species* (Darwin), 118
- Orphans, 26
- Ostrorog, Léon, 5, 8
- Ottoman Empire, xx, 59–60, 97–98,
105
- Pahlavi, Muhammad Reza, 124, 128
- Pahlavis, 64
- Pakistan, 64, 127
- Palestine, xix, 57, 118
- Palestinians, xxiv, 61, 63
- Pan-Africanism, xxiv–xxvi
- Parents: children's duties toward,
28–29; provision for children by,
25–28; Qur'an on, 142–43
- Parliamentary governments, 106
- Pasha, Midhat, 105–6
- Pasha, Muhammad 'Ali, 195
- Permanent Council for Scientific and
Legal Opinion of Saudi Arabia,
95–96
- Persia, xix, 106
- Phineas, Joseph Ibn, 57
- Pinochet, Augustino, 131
- Pleasure, 33–35
- Pluralism: metaphysical foundations
of, 44–46; protections of, 46–48
- Politics, 40–42, 68. See also
Governance
- Polygamy, 92–93, 99
- Prayers, 37, 67, 70
- Privacy, 38–39
- Project on Religion and Human
Rights, xxxi, 133
- Property, 35–38
- Public sphere, 33–43, 144–49
- Punishment, 24, 71
- Punjab Laws Act (1872), 87
- Purdah system, 70–71
- Pure Brethren of Basra, 49
- Putin, Vladimir, 83
- Qada'*, 43
- Qadhafi, Mu'ammār al-, 108
- Qur'an: on bodily pleasures, 33; on
business, 144–46; on children,
25–27, 142–43; on contributions,
36–37; on creation, 45; on dignity,
137–39; on divorce, 141; on
equality of men and women, 30,
66–67, 140–41; on humanity,
20–24, 137–39; human rights and,
4; on Islam, 139–40; on justice, 42,
143–44; on killing, 27; on
marriage, 30–33, 140–41; on
morality, 146–48; on nature, 48,
49; on oneness of God, 44–45; on
parents, 28–29, 142–43; on
privacy, 38–39; on promotion of
society, 39; on public life, 148–49;
on purpose of creation, 15; on
respect for beliefs, 15, 46, 51,
139–40; on respect for individuals,
39; significance of, xvi; on use of
wealth, 38; on war, 47–48, 149–50
- Qutb, Sayyid, 119–20
- Rabbanites, 56
- Racism, 62–63
- Rahman, 'Abd al-, III, 55
- Rahman, Fazlur, 18
- Ramadan, fast of, 37
- Rasheed, Harun al-, 54
- Rashidun*, 41, 79
- Razi, Al-Fakhr al-, 48
- Raziq, 'Ali 'Abd al-, 91–92, 117, 120
- Religion: freedom of, 8–10; French
Revolution and, 7–8; role in
human rights of, xxx–xxxi, xxxiii,
132–33; secularism versus, 116–24,
128–139, 133. See also Christianity;
Islam; Judaism
- Renteln, Alison D., 10
- Resistance: to Russian–Soviet
colonialism, 83–84; to Western
European colonialism, 85
- Respect: for individuals, 39; for non-
Muslims, xxiii–xxiv, 5, 8, 44,
46–47, 52–53, 59–60, 139–40. See
also Freedom of religion
- Responsibility, xxii. See also Duty
- Rights: of children, 24–29; duties
versus, 10–13. See also Human
rights
- Robinson, Mary, 3
- Rosenthal, Joseph, 118
- Rousseau, Jean Jacques, 5, 7, 119, 195
- Russell, Bertrand, 118
- Russia, 83–84
- Sa'ad, Ibn, 67
- Sabaeans, 56–57
- Sadaqat*, 36–37
- Sadat, Anwar al-, 109
- Sadr, Muhammad Baqir al-, 102
- Sahifat al-Madina*. See Charter of
Madina
- Said, Edward, 62
- Salahuddin, 58–59

- Salat, 37
 Samuel the Nagid, 55
 Sanctity of life, 27
 Sanhuri, 'Abd al-Razzaq al-Sanhuri, 96, 100-102
 Sarton, George, xv
 Sartre, Jean Paul, 120, 121
 Sasanian empire, xix, xxiv
 Saud, 'Abd al-'Aziz Ibn, 93, 98
 Saudi Arabia, 93-96, 98, 111
 Scholarship, xvii, 82, 96
 Secularism, 116-24, 127-29, 133
 Serbia, 62
 Shafi'i, al-, xl, 38
 Shahada, xxii, 37
 Shaltut, Mahmud, 27-28, 74-75
 Shari'a: colonialism and, 78, 84-89;
 on compulsion, 46; contemporary
 debates over, 95-96; definition of,
 xvi; and dignity, 24; Egyptian
 limitation of, 92; extent of, xviii;
 human rights and, 4-5, 114;
 interpretation of, xvii; justice and,
 185; modernization and, 97-102;
 in Saudi Arabia, 93; tolerance
 under, 8; Turkish replacement of,
 90-91; universality of, 42; on
 women, 71; in Yemen, 94
 Shari'ati, 'Ali, 123, 227
 Sharon, Ariel, 61
 Sharput, Hasday ben, 55
 Shatibi, Ishaq Ibrahim al-, 193-95
 Shaybani, al-, 86
 Shi'i, xvii
 Shura, xvi-xvii, 41, 79, 81, 105, 113
 Siddiq, Abu Bakr al-, 37, 41, 43,
 47-48, 78-79, 153-54, 195
 Signposts Along the Path (Qutb), 120
 Singapore, 64
 Six Days' War (1967), 109
 Smyth, John Henry, xxvi
 Social Justice in Islam (Qutb), 120
 Society: conduct in, 33-43, 144-49;
 provisions for children by, 28
 Society of Moslems, 108
 Soroush, 'Abdolkarim, 103
 South Africa, xxiv-xxv
 Southeast Asia, 64
 Soviet Union, 83-84
 Spain, xxiv, 52, 55-56
 Speaking in God's Name (Abou El
 Fadl), 96
 Sudan, 65, 86, 98, 106, 108, 111-12,
 118
 Sufi Tariqa, 127, 190
 Sufyan, Mu'awiyah Ibn Abi, 68, 197
 Sukarnoputri, Megawati, 69
 Sunna, xvi, 25
 Sunni, xvii
 Sunnis, 74
 Syria, xix, xxiv, 52, 57, 59, 62, 65,
 106, 108, 111
 Tabari, al-, 67
 Tahtawi, Rifa'a Badawi Rafi' al-,
 195-96
 Takhayyat, 98
 Taleqani, Sayyid Mahmud, 123
 Taleqani, Mahmud, xxxvi-xxxvii
 Talfiq, 98
 Talib, 'Ali Ibn Abi, 41, 68, 79,
 155-57, 196-97
 Taliban, 96
 Taqlid, 82
 Taxes, 36-38, 54, 195
 Taymiya, Ibn, 93
 Tejan-Cole, Abdul, 197
 Tocqueville, Alexis de, 7
 Tolerance, 52-53. *See also* Respect:
 for non-Muslims
 Treaty of Carlowitz (1699), 6
 Tunbukti, Ahmad Baba al-, 82
 Tunisi, Khayr al-Din al-, 105, 198
 Tunisia, 92-93, 108, 111
 Turkey, 90-91, 109, 115-18. *See also*
 Ottoman Empire
 Turner, Henry McNeal, xxv
 Uganda, 65
 'Ulama, xvii, 81-82, 121-22, 127
 'Umar Ibn al-Khattab. *See* Khattab,
 'Umar Ibn al-
 Umayyads, 79
 Umma, xvi, xix, xxii-xxiii, 41, 90, 99
 United Arab Emirates, 96
 United Nations, xxix, 113, 131
 Universal Declaration of Human
 Rights (1948), xxix-xxxvii; on
 dignity, 15-16; freedom of religion
 in, 9-10; Islamic concerns over,
 xxxii-xxxvii, 9-10; religious
 concerns over, xxx-xxxi;
 significance of, 131. *See also*
 International Bill of Human
 Rights by the World's Religions,"
 xxxi, 133
 Universal Islamic Declaration of
 Rights, 165-74
 Virtue, 32
 Visigoths, xxiv
 Voll, John O., 103, 125
 Voltaire, 195
 Von Grunbaum, G. E., xx
 Wahhab, Muhammad ibn 'Abd al-,
 93
 Wahhabism, 96
 Wajed, Hasina, 69
 Walid, Khalid Ibn al-, 54
 War, 47-48, 68, 149-50, 154
 Watt, William Montgomery, xix
 Wealth, 34-38
 Weber, Max, 117
 Weeramantry, C. G., 5, 11
 Western Europe, religion and
 secularism in, 128
 Westernization, 90-93, 120-23
 Westoxication (Ahmad), 120-21
 Why I Am Not a Christian (Russell),
 118
 Wilayat al-mazalim, 43
 Women, 66-75; activities of, 67-69;
 in battle, 68, 72; contemporary
 debates over, 71-75; as converts to
 Islam, xxviii; equality with men of,
 30, 66-67; infanticide of girls,
 26-27; Khadija's example for,
 190-91; Muhammad's sayings on,
 51, 67, 153; opposition to, 69-71;
 in politics, 68; Qur'an on, 140-41;
 violence against, 73-75; as wives
 of Muslims, xxviii; women's
 mosques, 72
 Work, 34-36
 World War I, 60
 Worship, 34-35
 Yacob, Abdul Rahman, 199
 Yeltsin, Boris, 83
 Yemen, 94
 Yusuf, Abu, 86
 Yusuf, al-Hajjaj Ibn, 69
 Yusuf, Qadi Abu, 54
 Zafrullah Khan, Muhammad, xxxii, 9
 Zakat, 36-37, 54, 195
 Zanzibar, 86
 Zaydun, Ibn, 69
 Zia, Begum Khaleda, 69
 Zoroastrians, 52, 56

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Covering a wide span of history, this set includes volumes on Islam, Christianity, Judaism, Buddhism, and Hinduism. Each volume touches on such issues as the right to life, the rights of women, punishment for crimes, war and peace, slavery, violence, and other topics related to human rights. They provide primary sources to document the history of thought on the subject within each religion. Biographical sketches and annotated bibliographies offer excellent resources for further study. Together, these volumes provide a comprehensive and unique approach to major religious views on human rights.

Throughout history, the peoples of the world have struggled with the idea of human rights. Indeed, at times, the definition of what constituted a human was variable, and some people were granted better protection than others. Still, even where rights were outlined and protected, atrocities against the human race abounded, and continue to occur even now. The major faiths of the world have much to contribute to the discussion of human rights, and have grappled with the issues for centuries. In this important five-volume set, human rights are examined within the context of Islam, Christianity, Judaism, Buddhism, and Hinduism from ancient times to the present. Authors track the development of ideas, opinions, and issues, providing readers with a fuller understanding of how each faith views human rights, and what each has to offer for our better understanding today. Primary sources, biographical sketches, and annotated bibliographies are included in each volume.